

APPENDIX: ZONING

**OFFICIAL
ZONING ORDINANCE
CITY OF NEWPORT
COMMONWEALTH OF KENTUCKY**

Adopted: February 24, 2003

ARTICLE I A ZONING ORDINANCE**SECTION 1.0 Ordinance Defined****ARTICLE II AUTHORITY AND PURPOSE****SECTION 2.0 Authority****SECTION 2.1 Purpose****ARTICLE III SHORT TITLE****SECTION 3.0 Short Title****ARTICLE IV INTERPRETATION****SECTION 4.0 Greater Restriction****SECTION 4.1 Permit or License In Violation****ARTICLE V CONFLICT****SECTION 5.0 Conflict****ARTICLE VI SEVERABILITY CLAUSE****SECTION 6.0 Severability Clause****ARTICLE VII DEFINITIONS****SECTION 7.0 Words and Phrases****ARTICLE VII ESTABLISHMENT OF ZONES****SECTION 8.0 Zones****SECTION 8.1 Official Zoning Map****SECTION 8.2 Changes on Zoning Map or Maps****SECTION 8.3 Replacement of Official Zoning Map or Maps****SECTION 8.4 Rules for Interpretation of Zone Boundaries****SECTION 8.5 Areas Not Included Within Zones****ARTICLE IX GENERAL REGULATIONS****SECTION 9.0 Purpose****SECTION 9.1 Reduction In Building Site Area****SECTION 9.2 Interference with Traffic Signals****SECTION 9.3 Vision Clearance at Corners, Curb Cuts, and Railroad Crossings****SECTION 9.4 Frontages on Corner Lots and Double Frontage Lots****SECTION 9.5 Utilities Location****SECTION 9.6 Railroad Right of Way Location****SECTION 9.7 Excavation or Movement of Soil****SECTION 9.8 Unsightly or Unsanitary Storage****SECTION 9.9 Junkyard Location****SECTION 9.10 Application of Zoning Regulations****SECTION 9.11 Nonconforming Lots, Nonconforming Uses, Nonconforming Structures, Repairs and Maintenance****SECTION 9.12 Exceptions and Modifications****SECTION 9.13 Conditional Buildings and Uses**

- SECTION 9.14 Building Regulations
- SECTION 9.15 Move and Set
- SECTION 9.16 Screening Area
- SECTION 9.17 Outdoor Swimming Pools: Private
- SECTION 9.18 Outdoor Swimming Pools: Public, Semi Public and Commercial
- SECTION 9.19 Development Plan Requirements
- SECTION 9.20 Regulations Concerning Air Rights
- SECTION 9.21 Flood Protection Development Controls
- SECTION 9.22 Regulations Concerning Design and Construction of Improvements
- SECTION 9.23 Creation of a Design Review Board
- SECTION 9.24 Planned Unit Development Regulations (PUD)
- SECTION 9.25 Hillside Development Controls
- SECTION 9.26 Regulations Pertaining to Parking or Storing of Semi-Tractors, Tractors, Panel Trucks, Buses, Trailers, Motor Homes, Campers, Inoperable Vehicles, Vehicles with Three or More Axles, and Other Similar Types of Equipment
- SECTION 9.27 Bus Shelter Regulations
- SECTION 9.28 City Center Overlay District
- SECTION 9.29 Tree Regulations
- SECTION 9.30 Wireless Communications Facilities
- SECTION 9.31 Urban Residential Overlay Zone
- SECTION 9.32 Transition Zone Regulations (TZD)
- SECTION 9.33 Sign Overlay District (SOD)

ARTICLE X ZONING REGULATIONS

- SECTION 10.0 District Regulations
- SECTION 10.1 Conservation District
- SECTION 10.2 Residential Districts
- SECTION 10.3 Commercial District
- SECTION 10.4 Industrial Districts
- SECTION 10.5 Monument Center Zone

ARTICLE XI PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES

- SECTION 11.0 Application of Performance Standards
- SECTION 11.1 Effects of Concurrent Operations

ARTICLE XII FENCES, WALLS AND OBSTRUCTION TO VIEW REGULATIONS

- SECTION 12.0 Vision Clearance at Corners and Railroad Crossings
- SECTION 12.1 Classification of Fences and Walls
- SECTION 12.2 Conservation Zone
- SECTION 12.3 Residential Zones
- SECTION 12.4 Commercial Zones
- SECTION 12.5 Industrial Zones
- SECTION 12.6 Measurement of all Fence and/or Wall Heights and/or Locations
- SECTION 12.7 Height of any Barbed Wire or Sharp Pointed Fences
- SECTION 12.8 Height of Fences Atop Retaining Walls

ARTICLE XIII OFF STREET PARKING AND ACCESS CONTROL REGULATIONS

- SECTION 13.0 General Requirements
- SECTION 13.1 District Parking Requirements
- SECTION 13.2 Design and Layout of Off Street Parking Areas
- SECTION 13.3 Specific Off Street Parking Requirements
- SECTION 13.4 Access Control Regulations
- SECTION 13.5 Variances

APPENDIX A Surfacing Specifications

ARTICLE XIV OFF STREET LOADING AND/OR UNLOADING REGULATIONS

SECTION 14.0 Off Street Loading and/or Unloading Regulation

SECTION 14.1 Off Street Loading and/or Unloading Use and Bulk Regulations

ARTICLE XV SIGN REGULATIONS

SECTION 15.0 Scope of Regulations

SECTION 15.1 General Rules, Regulations and Limitations

SECTION 15.2 Special Signs

SECTION 15.3 Sign Permit Required for Erection of Signs

SECTION 15.4 Application for Sign Permit

SECTION 15.5 Sign Permit Fees

SECTION 15.6 Classification of Signs

SECTION 15.7 Permitted Use and Location of Signs

SECTION 15.8 Variances: Signs

SECTION 15.9 Temporary Signs for Special Events

ARTICLE XVI ADMINISTRATION

SECTION 16.0 Enforcing Officer

SECTION 16.1 Zoning Permits

SECTION 16.2 Building Permits

SECTION 16.3 Certificate of Occupancy

SECTION 16.4 Certificate of Occupancy for Existing Building

SECTION 16.5 Certificate of Occupancy for Lawful Nonconforming Uses and Structures

SECTION 16.6 Denial of Certificate of Occupancy

SECTION 16.7 Certificate of Occupancy Records

SECTION 16.8 Complaints Regarding Violations

SECTION 16.9 Penalties

SECTION 16.10 Intent Concerning Determinations Involved in Administration and Enforcement of Performance Standards

SECTION 16.11 Duties of Zoning Administrator Regarding Performance Standards

ARTICLE XVII AMENDMENT PROCEDURE INCLUDING BUT NOT LIMITED TO CHANGE IN ZONING

SECTION 17.0 Declaration of Public Policy

SECTION 17.1 Limitations on All Proposed Amendments

SECTION 17.2 Public Hearing Required, Notice Given

SECTION 17.3 Application for Amendments

SECTION 17.4 Disposition of Applications

ARTICLE XVIII BOARD OF ADJUSTMENT

SECTION 18.0 Establishment of Board of Adjustment: Membership; Appointment; Terms; Vacancies; Oaths; Compensation; Removal; Officers

SECTION 18.1 Meetings of Board; Quorum; Minutes; Bylaws; Finances; Subpoena Power; Administration of Oaths

SECTION 18.2 Procedure for All Appeals to Board

SECTION 18.3 Appeals from Planning and Zoning Commission or Board of Adjustment

SECTION 18.4 Stay of Proceedings

SECTION 18.5 Powers of Board of Adjustment

SECTION 18.6 Dimensional Variances; Change from One Nonconforming Use to Another; Conditions Governing Applications; Procedures

SECTION 18.7 Decisions of the Board of Adjustment

SECTION 18.8 Decisions of the Zoning Administrator

ARTICLE XIX SCHEDULE OF FEES

SECTION 19.0 Schedule of Fees

ARTICLE XX REASONABLE ACCOMMODATION IN LAND USE AND ZONING REGULATION

SECTION 20.0 Definitions

SECTION 20.1 Purpose

SECTION 20.2 Applicability

SECTION 20.3 Notice to the Public of Availability of Accommodating Process

SECTION 20.4 Application for Requesting Reasonable Accommodation

SECTION 20.5 Grounds for Reasonable Accommodation

SECTION 20.6 General Conditions

SECTION 20.7 Reviewing Authority

SECTION 20.8 Required Findings

SECTION 20.9 Written Decision on the Request for Reasonable Accommodation

SECTION 20.10 Appeals

TABLE LIST OF TABLES

- 1 Minimum Gross Floor Area
- 2 Ohio and Licking Rivers 100-Year Floodplain Elevations
- 3 Woodlawn Creek 100-Year Floodplain Elevation
- 4 Permitted Uses: Residential Zones
- 5 Area and Height Requirements: Residential Zones
- 6 Permitted and Conditional Uses: Commercial Zones
- 7 Area and Height Requirements: Commercial Zones
- 8 Permitted Uses: Industrial Zones
- 9 Area and Height Requirements: Industrial Zones
- 10 Maximum Permissible Sound Pressure Level at Specified Points of Measurement for Noise Radiated Continuously from a Facility
- 11 Maximum Permitted Sound Pressure Level in Decibels
- 12 Specific Off-Street Parking Requirements
- 13 Sight Distance for Vehicles Exiting from Access Points onto Adjacent Roads
- 14 Left Turn Distance for Vehicles Entering Access Points
- 15 Thickness Requirements of Surface and Base Courses for Automobile and Truck Parking Facility Pavements
- 16 Permitted Use and Location of Signs

ARTICLE I A ZONING ORDINANCE

SECTION 1.0 ORDINANCE DEFINED:

AN ORDINANCE DIVIDING THE CITY OF NEWPORT COMMONWEALTH OF KENTUCKY, INTO ZONES. ZONES OF SUCH SHAPE AND AREA AS ARE DEEMED BEST SUITED TO CARRY OUT THESE REGULATIONS: REGULATING THE LOCATION, HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, REGULATING THE SIZE OF YARDS AND OTHER OPEN SPACES AND THE DENSITY AND DISTRIBUTION OF POPULATION AND THE USES OF BUILDINGS, STRUCTURES AND LAND USE AND OTHER PURPOSES, PRESCRIBING PENALTIES FOR THE VIOLATIONS, PROVIDING FOR ENFORCEMENT, A BOARD OF ADJUSTMENTS AND REPEALING ALL REGULATIONS, RESOLUTIONS, ORDERS, ORDINANCES AND/OR CODES IN CONFLICT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE CITY OF NEWPORT COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

ARTICLE II AUTHORITY AND PURPOSE

SECTION 2.0 AUTHORITY:

The Board of Commissioners of the City of Newport in pursuance of the authority of Kentucky Revised Statutes (K.R.S. 100.201 100.991) hereby ordains and enacts into law the following Articles and Sections.

SECTION 2.1 PURPOSE:

The zoning regulations and districts as herein set forth have been prepared in accordance with an adopted Comprehensive Plan for the City of Newport to promote the public health, safety, morals, and general welfare of the City, to facilitate orderly and harmonious development and the visual or historical character of the City, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, this Ordinance has been prepared to provide for vehicle off street parking and loading and/or unloading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people from fire, flood or other dangers. The zoning regulations and districts as herein set forth are employed to protect highways, other transportation facilities, public facilities, including schools and public grounds, the central business district, natural resources and other specific areas in the City of Newport which needs special protection by the City.

ARTICLE III SHORT TITLE

SECTION 3.0 SHORT TITLE:

This ordinance shall be effective throughout the City of Newport, Kentucky and shall be known, referred to, and recited to as the "OFFICIAL ZONING ORDINANCE OF THE CITY OF NEWPORT".

ARTICLE IV INTERPRETATION

SECTION 4.0 GREATER RESTRICTION:

The provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, and general welfare. Where this ordinance imposes a greater restriction upon the buildings, structures or premises, upon heights of buildings or structures or requires larger open spaces than are imposed or required by any other ordinances, the provisions of this ordinance shall govern.

SECTION 4.1 PERMIT OR LICENSE IN VIOLATION:

Notwithstanding any other provisions of this ordinance or any other ordinances, rules, codes, permits or regulations of the City of Newport; if any permit or license is issued in violation of any provision of this ordinance or purports to authorize the doing of any act not permitted by any provision of the ordinance, said permit or license shall be void.

ARTICLE V CONFLICT

SECTION 5.0 CONFLICT:

All ordinances and parts of ordinances of the City of Newport in conflict herewith are hereby repealed; providing, however, that such repeal shall not effect or prevent the prosecution or punishment of any person for any act done or committed in violation of any such ordinances and parts thereof hereby repealed prior to the effective date of this Ordinance.

ARTICLE VI SEVERABILITY CLAUSE

SECTION 6.0 SEVERABILITY CLAUSE:

That should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It being the intent of the Board of Commissioners of the City of Newport to enact each section, and portion thereof, individually, and each such section shall alone, if necessary, and be in force notwithstanding the invalidity of any such section or provision.

ARTICLE VII DEFINITIONS

SECTION 7.0 WORDS AND PHRASES:

For the purpose of this ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

- Words used in the future tense include the present;
- Words used in the present tense include the future;
- Words used in the singular include the plural;
- Words used in the plural include the singular;
- Words used in the masculine include the feminine;

Words used in the feminine include the masculine;

The word "shall" is mandatory and not directory;

The word "may" shall be deemed as permissive.

ABANDONMENT: Abandonment shall be deemed to have occurred when an activity or use ceases to operate and/or the premises are vacated so as to leave the property unoccupied for a period of at least six (6) consecutive months.

ACCESSORY BUILDING OR USE CUSTOMARY: A "customary accessory building or use" is one which:

- (a) Is subordinate to and serves the principal building or principal use, and
- (b) Is subordinate in area, extent, or purpose to the principal building or principal use served, and
- (c) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served, and
- (d) Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.

ADULT BOOKSTORES: Any building or structure which contains or is used for the display or sale of books, magazines, movie films, motion pictures and any and all printed or written materials, newspapers, photographic materials, drawings, novelties, other pictorial representations, devices and related sundry items, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", or an establishment with a segment or section devoted to the sale or display of such material. Any permitted, conditionally permitted or accessory uses allowed within any zone shall not be interpreted to include Adult Bookstores unless such use is specifically stated to include Adult Bookstores. No general descriptions set out elsewhere shall be deemed or construed to include such use.

(1) "Specified Sexual Activities" shall mean:

- (a) Acts of human masturbation, sexual intercourse, or sodomy or any acts of bestiality.
- (b) Fondling or other erotic touching of human genitals, pubic region, buttock or breast of either male or female.
- (c) Human genitals in a state of sexual stimulation or arousal.

(2) "Specified Anatomical Areas" shall mean:

- (a) Less than completely and opaquely covered:
 - (1) Human genitals, pubic region, (2) buttock, and (3) female breast below a point immediately above the top of the areola; and
 - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

ADULT ENTERTAINMENT ESTABLISHMENT: Any building or structure which contains, or is used for commercial entertainment where the patron directly or indirectly is charged a fee to engage in personal contact with or allow personal contact by employees, devices or equipment or by personnel provided by the establishment or views a series of dance routines, strip performances or other gyrational choreography provided by the establishment which appeals to the prurient interest of the patron, to include, but not to be limited to bath houses, massage parlors, and related or similar activities. Any permitted, conditionally permitted or accessory uses allowed within any zone shall not be interpreted to include Adult Entertainment Establishments unless such use is specifically stated to include Adult Entertainment Establishments. No general use descriptions set out elsewhere shall be deemed or construed to include such use. "Sexual Encounter Centers" are also to be considered adult entertainment.

(1) Sexual Encounter Center means an establishment/building that, as one of its principal purposes, offers:

- (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex, when one or more of the persons is in a state of nudity or semi-nude.
- (b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

ADULT THEATERS: A building or structure which is used for the viewing of performances or activities by others, whether such performances are in the form of live shows, motion pictures, slide shows or other forms of photographic or visual display, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "Specific Sexual Activities" or Specified Anatomical Areas", as heretofore defined, or an establishment with a segment or section devoted to the sale or display of such material. Any permitted, conditionally permitted or accessory uses allowed within any zone shall not be interpreted to include Adult Theaters. No general use descriptions set out elsewhere shall be deemed or construed to include such use.

AGRICULTURE: The use of land for agricultural purposes including agriculture, dairying, farming, floriculture, horticulture, pasturage, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

AIR RIGHTS: Air rights for the purpose hereof shall be defined to mean the ownership or control of all land, property, and that area of space at and above a horizontal plane over the ground surface of land. This horizontal plane shall be at a height above the existing or proposed development (depending on the individual property in question), which is reasonably necessary or legally required for the full and free use of the ground surface.

ALLEY: All public rights of way at the rear of the lot, which normally affords a secondary means of access to abutting property.

APARTMENT: A portion of a building consisting of a room or suite of rooms intended, designed or used as a permanent residence by an individual or one (1) family.

APARTMENT HOUSE: See DWELLINGS, MULTIPLE.

AUCTION: The buying and selling of goods either in person or on-line by offering them for bid and selling to the highest bidder.

AUTOMOBILE AND TRAILER SALES AREAS: An open, partially open, or enclosed area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold or rented on or from the premises.

AWNING: A covering that projects from and is supported by the wall of a building for the purpose of shielding a doorway or window from the elements.

BASEMENT/CELLAR: That portion of a building that lies wholly or partly underground. For purposes of height measurement a basement shall be counted as a story when more than one half (1/2) of its height is above the average level of the adjoining ground.

BED AND BREAKFAST INNS: An owner occupied principal residential structure in which a room or rooms are rented to the public on a nightly basis for periods of less than a week. Breakfast may be provided for guests only.

BED AND BREAKFAST UNITS: A room or a group of rooms for hire, located within a principal residential structure, forming a single habitable unit used or intended to be used for sleeping, but not for cooking or eating purposes.

BOARD OF ADJUSTMENT: Board of Adjustment, City of Newport, Commonwealth of Kentucky.

BOARD OF COMMISSIONERS: Board of Commissioners, City of Newport, Commonwealth of Kentucky.

BOARDING HOUSE: A residential building other than a hotel, motel, or tourist cabin where lodging and meals for four (4) or more persons are served for compensation, and by prearrangement for definite periods.

BORROW PIT: Any place or premises where dirt, soil, sand, gravel, or other material is removed by excavation or otherwise, below the grade of surrounding land, for any purpose other than mining operations such as gold, silver, coal, etc., and that which is necessary and incidental to grading or to building construction on the premises.

BUFFER AREA: Areas so planned and/or zoned which act as a buffering or separation area between two (2) or more uses or structures not compatible, due to design, function, use or operation.

BUILDABLE AREA: Any portion of area within the defined construction limits of a project that is essential for the purpose of constructing improvements thereon.

BUILDING: A structure enclosed within exterior walls or firewalls for the shelter, housing, support or enclosure of persons, animals or property of any kind.

BUILDING, ALTERATION OF: Any change or rearrangement in the supporting members (such as bearing walls, beams, columns or girders) of a building or any addition to a building, or movement of a building from one location to another.

BUILDING AREA OR LOT COVERAGE BY BUILDING: That portion of a lot or building site that can be legally occupied by the ground floor of the principal building or use and all permitted accessory uses excluding those portions of the lot or building site which shall be reserved for minimum required yard spaces.

BUILDING, COMPLETELY ENCLOSED: A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

BUILDING, DETACHED: A building surrounded by open space on the same lot or tract of land.

BUILDING, HEIGHT OF: The vertical distance measured from average elevation of the finished grade adjoining the building at the front building line to the highest point of the roof surfaces, if a flat roof; to the deck line of a mansard roof and; to the average height level between eaves and ridge for gable, hop and gambrel roofs.

BUILDING INSPECTOR: The official or officials appointed by the City of Newport for carrying out the Building Codes.

BUILDING LINE: A line defining the minimum front, side and rear yard requirements.

BUILDING, MAIN: See BUILDING, PRINCIPAL

BUILDING PERMIT: A permit issued by the City of Newport's Building Inspector authorizing the construction or alteration of a specific building, structure, sign or fences on a specific tract.

BUILDING, PRINCIPAL: The building on a lot used to accommodate the primary use to which the premises are devoted.

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the City of Newport's Ordinances, Regulations, and Codes for building on said site. For the purpose of this ordinance, the entire amount of ground being called a building site shall be in one (1) specific zone category and this shall not be construed to mean merely a residential, commercial, industrial, etc., but specifically: R-1, R-2, R-3, R-4, R-5, CBD, NC, SC, PO, RFD, CBDF, I-1, and I-2.

BUSINESS: Commercial establishments that provide, as their primary activity, sale of goods and/or services to individuals as well as to other commercial establishments.

CANOPY (MARQUEE): A permanent roof-like shelter extending from a building face serving the purpose of protecting pedestrians from the elements. Such structure shall be open on three or more sides and shall be supported either in part or wholly through ground supports and constructed of durable materials such as, but not limited to, glass, metal or plastic.

CAR WASH: A building or portion thereof, containing facilities for washing more than two (2) automobiles, using production line methods with chain conveyer, blower, steam cleaning devices, or other mechanical devices. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this ordinance, coin operated devices, of the above nature, which are operated on a self service basis, shall be construed to be the same.

CARPORT: See GARAGE, PRIVATE.

CHURCH: A building used principally for religious worship. The word "church" shall not include or mean an undertaker's chapel of a funeral building.

CITIZEN MEMBER: Any member of the Planning and Zoning Commission or Board of Adjustments who is not an elected or appointed official or employee of the City or county.

CITY TREE - A tree located on property owned by the City or public right-of-way. **CLINIC, ANIMAL:** A building used by a group of professional medical persons for the healing arts and treatment of small animals on an out patient or non boarding basis only, without runs.

CLINIC, PERSONS: A building used by a group of professional medical persons for the healing arts or treatment of persons on an out patient or non boarding basis only. Drug/Alcohol treatment or rehabilitation programs are not considered clinics under this definition.

CLUB: A building owned or rented by a non profit association made up of bona fide members paying dues, the use of which is restricted to said members and their guest.

COMMISSION, (PLANNING AND ZONING COMMISSION): The Planning and Zoning Commission of the City of Newport, Commonwealth of Kentucky.

COMMISSIONERS: Board of Commissioners, City of Newport, and Commonwealth of Kentucky.

COMPREHENSIVE PLAN: A guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. It shall contain, according to KRS Chapter 100, as a minimum, the following elements:

- (a) A statement of goals and objectives, principles, policies and standards;
- (b) A land use plan element;
- (c) A transportation plan element;
- (d) A community facilities plan element;
- (e) May include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, and others.

CONCEALED LIGHTING: An artificial light source intended to illuminate the face of a sign the direct source of which is shielded from public view and surrounding properties.

CONDITIONAL USES: A use which may be suitable as determined by the Board of Adjustment in zones herein defined, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on locations, size, extent, and character of performance are imposed.

CONDITIONAL USE PERMIT: Legal authorization to undertake a conditional use, issued by the Zoning Administrator pursuant to authorization by the Board of Adjustment, consisting of two parts:

- (a) A statement of the factual determination by the Board of Adjustments which justifies the issuance of the permit; and
- (b) A statement of the specific conditions, which must be met in order for the use to be permitted.

CONFORMING USE: Any lawful use of a building, structure, lot, sign or fence, which complies, with the provisions of this ordinance.

COURT: An open unoccupied space other than a yard, on the same lot with a building and which is bounded on two (2) or more sides by the building.

CURB CUT: Any interruption, or break in the line of a street curb in order to connect a driveway to a street, or otherwise to provide vehicular access to abutting property.

CURB LEVEL: The level of the established curb in front of the building measured at the center of such front. Where no curb has been established, the Newport City Engineer shall authorize and approve the establishment of such curb level or its equivalent for the purpose of this ordinance.

DECIBEL: A unit of measurement of the intensity (loudness) of sound. Sound level meters, which are employed to measure the intensity of sound, are calibrated in "decibels".

DELICATESSEN: A shop that sells freshly prepared foods, and canned and packaged ingredients, either for consumption on premises or off-premises.

DISTRICT: For purposes of this ordinance synonymous with "zone".

DORMITORY: A building used to provide residences for a group of persons (including students, faculty or staff) of whom all are exclusively associated with an institution for higher education.

DRIP LINE - A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.

DWELLING: Any building which is completely intended for, designed for and used for residential purposes, but for the purpose of this ordinance shall not include a hotel motel, hotel, motel, nursing home, tourist cabins, college or university dormitories, or military barracks.

DWELLING, ATTACHED: The sharing of a common wall by two (2) or more dwelling units.

DWELLING, CLUSTER: A single family dwelling, which is located on a lot having side yard dimensions, which vary according to the width of the lot to be developed. Cluster dwellings may or may not be attached in some fashion by common walls without openings. Cluster dwellings are intended to allow for imaginative site planning and arrangement of buildings.

DWELLING, DETACHED: A dwelling unit having no wall in common with another dwelling unit.

DWELLING, DOUBLES: See DWELLING, TWO FAMILY.

DWELLING, DUPLEXES: See DWELLING, TWO FAMILY.

DWELLING, EFFICIENCY: A variant of a "dwelling, multiple", wherein said dwelling shall consist of a single room, exclusive of bathroom, but including a kitchen area within the common space.

DWELLING, GROUP HOUSE: A building that has not less than three (3) one family housekeeping units erected in a row as a single building on one lot or on adjoining lots, each being separated from the adjoining unit or units by an approved masonry party wall or walls, and each such building being completely separated from any other building by space on all sides and such space shall be at least the required minimum yard setbacks as so specified in this ordinance.

DWELLING, MULTIPLE: A residential building used and/or arranged for rental occupancy, or cooperatively owned by occupants, having three (3) or more dwelling units, as separate housekeeping units. This type of dwelling shall be inclusive of apartment buildings and group house dwellings.

DWELLING, ROW HOUSE: A building or portion thereof designed, intended or used for residential purposes. The building is situated so that its side walls are shared with other like structures all having their own separate entrances and lots of record.

DWELLING, SEMI DETACHED: The partial sharing of a common wall by two (2) or more dwelling units.

DWELLING, SINGLE FAMILY: A detached residential building designed, arranged, or used for or occupied exclusively by one (1) family, but shall not include house trailers.

DWELLING, TOWN HOUSE: A building or portion thereof designed, intended or used for residential purposes. A town house is a single family unit with party walls and with each unit having its own entrance.

DWELLING, TRAILER: See MOBILE HOME.

DWELLING, TWO FAMILY: A residential building designed, arranged, or used exclusively by two (2) families, living independently of each other.

DWELLING UNIT: A building or portion thereof providing complete housekeeping facilities for one (1) person or one (1) family.

DWELLING, ZERO LOT LINE: A single family dwelling which is located on a lot having side yard dimensions which vary according to the width of the lot to be developed, and which dimension may be reduced to zero (0) feet on one (1) side of the dwelling subject to regulations contained herein. Zero lot line dwellings are intended to allow for imaginative site planning and arrangement of buildings.

EASEMENT: A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, sewer lines, water lines and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for drainage of access purposes.

EATING ESTABLISHMENTS RESTAURANTS:

(a) **Fast Service Restaurants:** Any structure where cooked food and beverages primarily intended for immediate consumption are available upon a short waiting time, and are packaged or presented in such a manner that they can be readily eaten outside the premises where they are sold; and where the facilities for on premises consumption of the food and beverages are insufficient for the volume of food sold in the establishment.

(1) **Carry out:** An establishment preparing and offering food and beverages, which are sold only inside the building and are packaged to be carried and consumed off the premises.

(2) **Drive in:** An establishment offering food and beverages which are sold within the building, or to persons while in motor vehicles in an area designated for drive in or drive through service, and for consumption on or off the premises.

(b) **Sit Down Restaurant:** An establishment that prepares and sells foods and beverages to the customer in a ready to consume state through one of the following methods of operation 1) customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which said items are consumed; or 2) a cafeteria type operation where foods and beverages are consumed within the structure.

(c) **Combination:** A restaurant, which provides any combination of sit down service, plus the capability of providing carry out, drive in, or both services.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety or general welfare. This definition is not meant to include buildings.

EXISTING, OPERATIONAL ADULT BUSINESSES: Any adult bookstore or adult entertainment establishment or adult theater, as well as the structures housing same, which are carrying on and doing business for gain or economic benefit, exist upon the passage of this Ordinance.

FAMILY: An individual or two (2) or more persons related by blood or marriage or group of not more than seven (7) persons who need not be related by blood or marriage, living together in a single housekeeping unit as their common home for the time, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.

FILLING STATION: See SERVICE STATION.

FINANCIAL INSTITUTION: Commercial banks, savings and loan associations, brokerage offices and other similar financial institutions, but not including pawnshops.

FLOOR AREA, GROSS: The sum of the gross horizontal area of the several floors of a dwelling unit or units exclusive of porches, balconies and garages measured from the exterior faces of the exterior walls or from the center lines of walls or partitions separating dwelling units.

For uses other than residential, the gross floor area shall be measured from the exterior faces of the exterior walls or from the center line of walls or partitions separating such uses and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

The gross floor area shall not include floors used for parking space when such parking appertains to a residential, commercial, or office used in the same structure.

FRATERNITY OR SORORITY: A club or social activity officially associated with and supervised by a recognized institution for higher education whose membership is limited exclusively to students of the said institution.

FRATERNITY/SORORITY HOUSE: A building used by a fraternity or sorority to provide living quarters for some or all members as well as to provide study, meeting, recreational and other facilities.

FREQUENCY: The number of oscillations per second in a sound wave. This is an index of the pitch of the resulting sound.

FRONTAGE: All the property abutting on one (1) side of the right of way of a street, measured along the right of way line of the street between the lot lines. In no case shall the line along an alley be considered as acceptable for frontage.

GARAGE, PRIVATE: An accessory building or portion of a principal building not exceeding eight hundred (800) square feet in area, per dwelling unit, designed, intended and used for the storage of not more than four (4) motor driven vehicles, per dwelling unit, owned, used and registered in the name of the occupants of the dwelling unit for which said private garage is intended. Not more than one (1) of the vehicles shall be a commercial vehicle and this vehicle shall not be more than one (1) ton capacity. This definition shall not include a public garage.

GARAGE, PUBLIC: A building or portion thereof designed, intended and used exclusively for the care, repair, or equipment of self propelled motor vehicles or other vehicles. This definition shall not include private garage.

GROUP HOME: A residential facility for the care of seven (7) or less unrelated individuals living in a single housekeeping unit and recognized as handicapped individuals under the Fair Housing Act and Americans with Disabilities Act. A SOBER LIVING FACILITY shall be considered as a GROUP HOME for all purposed consistent herewith.

GROUP HOUSING: See DWELLING, GROUP HOUSE.

HOSPITAL, ANIMAL: A building used by a group of professional medical persons for the healing arts or treatment of animals generally on an in patient or boarding basis and shall have outside runs.

HOSPITAL, PERSONS: A building used by a group of professional medical persons for the healing arts or treatment of persons generally on an in patient or boarding basis.

HOTEL/MOTEL: A building, or group of buildings, comprised of individual sleeping or living units for the accommodation of transient guests, not containing individual cooking or kitchen facilities. Parking facilities are generally located adjacent to the living units or in an attached garage.

HOTEL/MOTEL - EXTENDED STAY: A building or group comprised of individual sleeping or living units for the accommodation of transient guests containing full kitchen/cooking facilities.

HOTEL/MOTEL RESIDENCE: A building, or group of buildings, comprised of individual sleeping or living units for the accommodation of transient guests, containing limited cooking or kitchen facilities available for use by guests.

HOUSE TRAILER: See MOBILE HOME.

JUNK: Scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc, and all other scrap metals and the alloys, and bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, inoperative motor vehicles, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to made them unusable in their existing condition or which are subject to being dismantled.

JUNK YARD: An open area where any waste, used or second hand materials are sold, bought, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "Junk Yard" includes an auto wrecking yard or the storage or keeping of one (1) or more inoperative motor vehicles unless where otherwise specifically permitted but does not include uses established entirely within enclosed buildings.

KENNEL: Any building, structure or open space devoted in its entirety or in part to the raising, boarding or harboring of four (4) or more dogs, at least four (4) months of age.

LABORATORY: A building or a portion of a building devoted to the experimental study in science, or the testing and analysis of chemicals, drugs, explosives, minerals, etc.

LABORATORY, MEDICAL, OPTICAL OR DENTAL: A building or a portion of a building used to provide bacteriological, biological, medical, x ray, pathological, optical and similar analytical or diagnostic services to doctors, optometrists/opticians or dentists and where no fabrication is conducted on the premises, except the custom fabrication of dentures, optical glasses, contact lenses and similar devices.

LANDMARK TREE - Any tree designated and identified as such by Tree Board, which meets one or more of the following criteria:

1. Tree species is rare.
2. Tree is more than one hundred (100) years of age.
3. Tree has been connected with a significant historical event.
4. Tree is of outstanding trunk diameter or drip line diameter for a tree of its species.
5. The quality of the tree foliage is outstanding for a tree of its species
6. Tree is of special importance to the City.

LAUNDROMAT: A business that provides home type washing, drying and/or ironing machines for hire to be used by customers on the premises.

LEASABLE AREA, GROSS: The total floor area designed for tenant occupancy and exclusive, use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

LENDING INSTITUTION: REFER TO FINANCIAL INSTITUTION

LIVESTOCK: Domestic animals of types customarily raised or kept on farms for profit or other productive purposes.

LOADING AND/OR UNLOADING SPACE: A surfaced space within the main building or on the same lot providing for the temporary standing, loading and/or unloading of trucks. Said space shall be connected with an accepted deeded public right of way which affords ingress and egress for vehicles.

LODGING HOUSE: A building, other than an apartment, hotel, motel or tourist court where lodging for four (4) or more persons is provided for compensation.

LOT: A parcel of land or any combination of several lots of record, occupied or intended to be occupied by a principal building or a building group, as permitted herein, together with their accessory buildings or uses and such access, yards and open spaces required under this ordinance.

LOT AREA: The total area of a horizontal plane bounded by the front, side and rear lot lines including flood plains, waters of any lake, river, creek or major drainage ditch, but excluding any area occupied by rights of way. For the purposes of this ordinance all of the area of a given lot shall be in one (1) specific zoning category.

LOT, CORNER: A "corner lot" is a lot situated at the intersection of two streets or on a curved street on which the interior angle of such intersection or curved street does not exceed one hundred and thirty five (135) degrees.

LOT, DEPTH OF: The distance measured in the mean direction of the side lot lines from the midpoint of the front lot lines to the midpoint of the rear lot lines.

LOT, DOUBLE FRONTAGE: A lot other than a corner lot that has frontage on more than one (1) street.

LOT, INTERIOR: A lot other than a corner lot with only one (1) frontage on a deeded and occupied public right of way.

LOT LINE, FRONT: The common boundary line of an interior lot (other than a double frontage lot) and a street right of way line or the common boundary line of a corner lot (other than a double frontage lot) and that street right of way line toward which the principal or usual entrance to the main building situated on such lots most nearly faces, or the common boundary line of a through lot and any adjacent road or street right of way line.

LOT LINE, REAR: The boundary line of a lot, which is most nearly opposite the front lot line of such lot. In the case of a triangular or wedge shaped lot, for measurement purposes only, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line shall be deemed to be the rear lot line. In the case of a corner lot, providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.

LOT LINE, SIDE: Any boundary line of a lot, other than a front lot line or rear lot line.

LOT OF RECORD: A designated fractional part of subdivision of a block, according to a specific recorded plat or survey, the map of which has been officially recorded in the office of the Campbell County Clerk, Commonwealth of Kentucky.

LOT WIDTH, MINIMUM: The width of the lot as measured along the minimum building front setback line.

LOT, ZONING: A "zoning lot or lots" is a single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developers as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

MEZZANINE: An intermediate or fractional story between the floor and ceiling of a main story, used for a purpose accessory to the principal use. A mezzanine is usually just above the ground floor and extending over only part of the main floor.

MINIMUM BUILDING SET BACK LINE: A line parallel to the front, side and/or rear lot line and set back from the lot line a sufficient distance as specified in this ordinance, to provide the required minimum yard space.

MINIMUM FRONT YARD DEPTH: The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the street right of way line and the front line as defined herein.

MINIMUM REAR YARD DEPTH: The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the rear lot line, as defined herein, and the rear lot line.

MINIMUM SIDE YARD WIDTH: The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the side lot line, as defined herein, and the side lot line.

MOBILE HOME: Any coach, cabin, mobile home, house trailer, house car or other vehicle or structure intended for or capable of human dwelling or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle. For the purpose of this ordinance, the removal of wheels and/or the permanent or semipermanent attachment of a foundation to said house trailer shall not change its classification.

MOBILE HOME PARK: Any lot, parcel or premises, subdivided, designed, maintained, intended or used for the purpose of supplying a location, or accommodation for mobile homes; or any lot parcel or premises on which is parked, standing or located two (2) or more mobile homes for a longer period than twenty four (24) hours; or one (1) or more mobile homes connected to either electrical lines, or water or sewer pipes; or any mobile home being utilized on the premises on which it is located. For the purpose of this ordinance, any lot or premises used for the wholesale or retail sale of mobile homes shall not be included within this definition.

MODULAR: Housing manufactured off site, often mass produced, and designed so that sections are interchangeable. This is a production technique, which can be applied to low or high-density type construction.

MOTELS: A group of attached or detached buildings but not house trailers containing individual sleeping or living units for travelers and transient guests, with garage attached or parking facilities conveniently located to each unit. The term includes tourist court when related to the context specified herein.

NATIONAL STANDARDS: An acknowledged basis for comparing or measuring criterion of, relating to, or belonging to the nation as a whole.

NIGHTCLUB: An establishment that prepares and sells foods and/or beverages to the public in a ready-to-consume state. In such an establishment, the customer may be provided an individual menu and is served food and/or beverages by an employee of the establishment. Food and/or beverages are to be consumed at the establishment. Live legitimate (not including "adult") entertainment and alcoholic beverages may be offered in such establishments.

NON-CITY TREE - Any tree other than a City tree as heretofore defined.

NON CONFORMING LOT: A lot which was lawfully created but which does not conform to the minimum lot requirements specified for the zone in which it is located.

NON CONFORMING USE OR STRUCTURE: An activity or a building, sign, fence, structure or a portion thereof which lawfully existed before the adoption or amendment of this ordinance, but which does not conform to all of the regulations contained in this ordinance or amendments thereto which pertain to the zone in which it is located.

NOXIOUS MATTER OR MATERIALS: Matter or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well being of individuals as determined by the Northern Kentucky District Health Department.

NURSERY: Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings, but does not include the wholesale or retail sale of any items other than those incidental to the items raised or grown on said premises.

NURSERY SCHOOL: Any building used for the daytime care and/or education of preschool age children and including all accessory buildings and play areas, and shall for the purpose of this ordinance, be considered a group activity.

NURSING HOME: A health establishment, which provides nursing care under the direction of a Kentucky, licensed physician to patients who for reason of illness or physical infirmities are unable to care for themselves properly.

OCTAVE BAND: A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OCTAVE BAND FILTER: An electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

ODOROUS MATTER: Any material or material that yields an odor which is offensive in any way to a person with reasonable sensitivity.

PARKING AREA, OFF STREET: An open, surfaced area other than the rights of ways of a street, road, highway, alley, or place, used for temporary parking of self propelled motor vehicles and available for public use either free, for compensation or as an accommodation for clients or customers.

PARKING BUILDING OR GARAGE: A building or portion thereof designed, intended and used exclusively for the temporary parking of self propelled motor vehicles and may be publicly or privately owned and/or operated and may be for remuneration, free or privately utilized.

PARKING SPACE: A surfaced area enclosed in the main building or in an accessory building or in an unenclosed lot permanently reserved for the temporary parking of one (1) operative automobile. Said space shall be connected with a deeded and accepted public right of way by a surfaced driveway, which affords ingress and egress for vehicles.

PARTICULATE MATTER: Any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions.

PAWN SHOP: An establishment in which individuals borrow money from a person licensed to loan money at a legally specified rate of interest. The lender accepts personal property as collateral to secure the loan. Pawnshops are not a permissible use under the definition of financial institution.

PERFORMANCE STANDARDS: A criteria established to control building enclosure, landscaping, noise, odorous matter, exterior lighting, vibration, smoke, particulate matter, gases, radiation, storage, fire and explosive hazards, and humidity, heat or glare generated by or inherent in, uses of land or buildings.

PLANNING COMMISSION: The Planning Commission of the City of Newport, Kentucky. The "Planning Commission" shall also mean the "Planning and Zoning Commission."

PLANNED UNIT DEVELOPMENT (PUD): A development on a relatively large tract of land, which permits a developer to provide a variety of housing types with an integrated design and layout all within one area. Depending on the scale of the site, other land uses such as shopping areas may also be included. The

objective of PUD is to reduce the individual dwelling unit cost for the buyer renter, yet provide amenities of open space and recreation with the same site design.

PROTECTIVE BARRIER - A barrier constructed to protect the root system or trunk of a tree from damage during construction or from equipment or soil or material deposits.

PUBLIC BUILDING: Any building open to the general use, participation or enjoyment of the public or operated for the public's benefit and owned and/or operated by a City, County, State, or Federal Government or by a public utility corporation or municipal district or authority.

RAILROAD RIGHTS OF WAY: A strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

RECREATION, COMMERCIAL: Recreation facilities open to the general public for a fee or restricted to members when operated for profit as a business.

RECREATION, PRIVATE, NON COMMERCIAL: Clubs or recreation facilities, operated by a non profit organization and open only to bona fide members of such nonprofit organization and their guests.

REST HOME: A rest home or convalescent home for the aged or mentally or physically infirm is any place of abode, building, institution, residence or home used for the reception and care, for a consideration of three (3) or more persons, who by reason of age, mental, or physical infirmities are not capable of properly caring for themselves.

RESTAURANT: An establishment where the primary business is the serving of meals to customers, has an operating full service kitchen facility and receives a minimum of fifty percent (50%) of its gross receipts from the sale of food.

ROOT SYSTEM: Tree roots within the drip line perimeter.

SCHOOLS, BUSINESS: An institution or place for instruction of education, specifically in courses of bookkeeping, business administration, operation of business machines, shorthand and typing and related courses, operated for an intended profit. For the purpose of this ordinance business colleges shall be included in this definition.

SCHOOLS, PAROCHIAL: An institution or a place for instruction of education belonging to and maintained by a religious organization.

SCHOOLS, PRIVATE: An institution or a place for instruction of education belonging to and maintained by a private organization other than those types defined in this ordinance.

SCHOOLS, PUBLIC: An institution or place for instruction of education belonging to the public and established and conducted under public authority in the various districts, counties or cities and maintained at the public expense by taxation, and open with or without charge to the public for their attendance. This does not include schools owned and/or conducted by private parties though said schools may be open to the public generally and though tuition may be free. Schools in the aforementioned category of public schools shall include all pre-school or kindergarten, elementary, junior high, high schools, alternative/vocational, junior colleges, college and universities, but no others.

SCHOOLS, TRADE: An institution or place for instruction of education, specifically in one or more of the general trades such as: welding, carpentry, electrical, etc.

SCREENING AREA: An area set aside to remain vacant of buildings and to be planted and landscaped to reduce the blighting effect of certain land uses on adjacent property.

SERVICE FACILITIES, PUBLIC UTILITIES: Service facilities include all facilities of public utilities operating under the jurisdiction of the Public Service Commission, and common carriers by rail, other than office space, garage and warehouse space and include office space, garage space and warehouse space when such space is incidental to a service facility.

SERVICE STATION: Any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels, oils, or accessories and in connection with which is performed general automotive servicing as distinguished from automotive repairs.

SIGN: Any work, lettering, figures, numbers, phrases, sentences, emblems, devices, (including loud speakers), designs, pictures, trade names or trademarks by which is affixed to, or represented directly or indirectly upon a building, structure, vehicle (including portable type vehicles) or piece of land and which directs attention to an object, place, activity, person, firm, corporation, institution, business, service, commodity or a product, which are visible from the rights of way of any street, road, highway, or pedestrian area and designed to attract attention. The term "sign" shall not include the flag, pennant, or insignia of any nation, state, county, City or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, monument, event or any type of traffic or warning sign of signal or the usual house or building number or a sign posted on a service or delivery type vehicle.

SIGN, ADVERTISING: An advertising sign is a sign, which directs attention to a business, commodity, service, or entertainment conducted, sold or offered:

- (a) only elsewhere than upon the premises where such sign is located or to which it is affixed or
- (b) as a minor and incidental activity upon the premises where the sign is located.

SIGN, ANIMATED/FLASHING: Any sign having a conspicuous and intermittent variation in the illumination or physical position of any part of the sign.

SIGN, AWNING: Any sign affixed directly to an awning.

SIGN, BANNER: A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

SIGN, BILLBOARD: A sign that identifies a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

SIGN, BUSINESS: A sign which directs attention to a business, profession or industry located upon the premises where such sign is displayed or to which it is affixed, to type of products sold, manufactured or assembled and/or to service or entertainment offered upon said premises, but not pertaining to an advertising sign if such activity is only minor and incidental to the principal use of the premises.

SIGN, CANOPY: Any sign affixed directly to any canopy.

SIGN, ELECTRONIC: Any sign that uses changing lights to form a message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic process.

SIGN, FLAT: Any sign which is attached directly, in rigid manner and parallel to the building wall and shall not extend outward from the building wall more than twelve (12) inches, except, however, if the sign is externally illuminated, the reflectors shall project not more than four (4) feet beyond the face of the sign. Such sign or signs shall not extend beyond the top or ends of the wall surface on which they are placed.

SIGN, GROSS AREA OF: The entire area within a single continuous perimeter enclosing the extreme limits of a sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural element lying outside the limits of such sign and not forming an integral part of the display.

SIGN, GROUND: Any sign erected, constructed or maintained when such sign is supported by uprights or braces placed in the ground not attached to any part of any building or when such sign is placed directly upon the ground.

SIGN, HANDBILL: Any sign that is a printed sheet or pamphlet distributed by hand.

SIGN, IDENTIFICATION: A sign used to identify: the name of the individual, family, organization or enterprise occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.

SIGN, INDIVIDUAL LETTER: Letters and/or numbers individually fashioned from metal, glass, plastic or other materials and attached directly to the wall of a building, but not including a sign painted on a wall or other surface.

SIGN, MARQUEE: A permanent roof-like structure extending wholly from the face of a building and constructed of durable material such as, but not limited to, glass, metal, or plastic for the purpose of advertising an attraction open to and for the general public.

SIGN, MOBILE: A sign that is permanently attached to a structure on wheels, skids, or other form of mounting which structure is not permanently affixed in or to the ground.

SIGN, NEON: any sign which emanates neon light either by means of exposed tubing or lamps on its surface, or by means of illumination transmitted through the sign faces.

SIGN, PAINTED: A sign painted directly on the exterior surface of a structure or building.

SIGN, POLE: Any sign affixed to a freestanding supporting pole, embedded in, and extending upward from the ground.

SIGN, PROJECTING: Any sign projecting from the face of a building and securely attached to the building by bolts, anchors, chains, guys, or to posts, poles, or angle irons attached directly to the building.

SIGN, REAL ESTATE: A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located or to the sale or lease of one or more structures or a portion thereof located on such lot or tract of land.

SIGN, ROOF: Any sign erected upon, against, or directly above a roof or roof eave, or on top or above the parapet, or on a functional architecture appendage above the roof or roof eave.

SIGN, WALL: A sign painted on the outside of a building, or attached to, and erected parallel to the face of a building and supported throughout its length by such building.

SIGN, WINDOW: A sign installed inside a window for the purpose of viewing from the outside the premises, but not anchored to or painted on either the inside or outside surface of the glass.

SOBER LIVING FACILITY: A single family dwelling unit used by individuals recovering from a drug and/or alcohol addiction, considered as a handicapped individual under state and federal law. A SOBER LIVING FACILITY shall not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental-nutritional or other health care services; financial management services; legal services; vocational services; and other similar supportive services.

SOUND LEVEL METER: An instrument standardized by the American Standards Association for measurement of intensity of sound.

STABLE, PRIVATE: A separate accessory building with a capacity for not more than one (1) horse or one (1) pony for each six thousand (6,000) square feet of lot area whereon such stable is located and where such horses or ponies are owned by the owners or occupants of the premises and not kept for compensation, hire or sale.

STABLE, PUBLIC: A main building with a capacity for not more than one (1) horse or one (1) pony for each six thousand (6,000) square feet of lot area whereon such stable is located and where such horses or ponies are owned by the owners, occupants of the premises or others and are kept for compensation, hire or sale.

STORY: That portion of a building, structure, and/or parking deck included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. For purposes of this ordinance, a basement shall be counted as a story.

STORY, HALF: A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story.

STREET: A public thoroughfare, constructed within the boundaries of an officially deeded and accepted public right of way, which affords principal means of access to abutting property.

STREET, ARTERIAL: Public thoroughfares, which serve the major movements of traffic within and through the community as, identified in the adopted Comprehensive Plan for the City of Newport.

STREET, COLLECTOR: Public thoroughfares, which serve to collect and distribute traffic primarily from local residential streets to arterial streets.

STREET, EXPRESSWAY: A divided arterial highway for through traffic with full or partial control of access in general with grade separations at major intersections.

STREET, FREEWAY: A divided multi lane highway for through traffic with all cross roads departed in grades and with full control of access.

STREET, LOCAL: Facilities, which are designed to be used primarily for, direct access to abutting properties and leading into the collector street system.

STREET, MAJOR: Any public thoroughfare classified as an "arterial", "freeway", or "expressway".

STRUCTURE: Anything constructed or erected, the use of which requires a location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings, mobile homes, signs, and fences, but not including earthworks, ditches, canals, dams, reservoirs, pipelines, telephone or telegraph or electric power lines, driveways, or curbs.

SUBDIVISION: The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots of parcels of five acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context shall relate to the process of subdivision or to the land subdivided.

SWIMMING POOL, OUTDOOR: Any structure or device of any kind, that is intended for swimming purposes, including but not limited to: any pool or tank of any material or type of construction, or any depression or excavation in any natural or constructed material, or any depression or excavation in any natural or constructed material, or any like to term of any material or type of construction; including all appurtenances to such structure or device and all appliances used in connection therewith; which structure or device is intended to cause, or would cause if completely filled, the retaining of water to a greater depth than eighteen (18) inches at any point. Any such structure or device shall be deemed to be included within the meaning of the term "structure" as in this ordinance. Outdoor swimming pools shall be deemed to consist of the following classes: Private, semi public, public and commercial, as follows:

(a) Private: When consisting of any accessory structure appurtenant to a one family or a two family dwelling and used only as such by persons residing on the same lot and their private guests (as distinguished from groups of any kind) with no payment of any kind or in any form charged or received for such use.

(b) Semi Public: When consisting of an accessory structure appurtenant to a multiple dwelling, hotel, motel, church, school or private club, or country club, and used only as such by persons who reside or are housed on the same lot or who are regular members of such church, club, country club or regular attendants at such school and by individual guests (as distinguished from groups of any kind) of the foregoing with no payment of any kind or in any form being charged or being received for such use.

(c) Public: A swimming pool maintained and operated by a municipality or other unit of government for the general public, whether or not an admission fee is charged.

(d) Commercial: A swimming pool operated for profit, open to the public upon payment of an hourly, a daily, weekly, monthly, annual, or other fee.

TAVERN: Any establishment selling, by the drink, fermented malt beverages or malt, vinous or spirituous liquors.

TENT: Any structure or enclosure, the roof of which and/or one half (1/2) or more of the sides constructed of silk, cotton canvas, fabric, or a similar light material.

TOURIST COURT: See MOTELS.

TREE: Any living, self-supporting woody or fibrous plant, usually having a single woody trunk.

TREE BOARD: The Tree Board of the City of Newport, Kentucky.

USE: Any purpose for which a building, structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in a building, structure or on a tract of land.

VARIANCE: A departure from dimensional terms of the zoning regulations pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets and requirements of KRS 100.241 to 100.247. (Enact. Acts 1966, ch. 172, S 1; 1974, ch. 398, S 1; 1982, ch. 306, S1, effective July 15, 1982; 1986, ch. 23, S 7, effective July 15, 1986; 1986, ch. 141, effective July 15, 1986.)

YARD: An open space on the same lot or building site with a main building unoccupied and unobstructed from the ground upward, except by trees, plants, shrubberies, ornaments, utility poles and wires, dog houses, outdoor furniture, gas pumps, pump islands, and except as otherwise permitted in Section 9.10 (G), "Permitted Obstructions in Minimum Required Yards or Courts".

YARD DEPTH, FRONT: An open space extending the full width of the lot or building site measured between a line parallel to the street right of way line intersecting the foremost point of any building excluding steps and unenclosed porches and the front lot line, as defined herein.

YARD DEPTH, REAR: An open space extending across the full width of the lot and measured between a line parallel to the rear lot line, as defined herein, which intersects the rearmost point of any building excluding steps and unenclosed porches and the rear lot line.

YARD WIDTH, SIDE: An open space between any building and the side lot line, as defined herein, extending from the front of the building line to the rear yard or on through lots or building sites from one front lot line to the other front lot line.

YOUTH SHELTER: A building, facility or residence used for the reception and temporary care of persons under the age of 18 years who by some circumstance are without safe and proper shelter. "Temporary care" shall mean a maximum of 30 days residence. Such use may include one dwelling unit for a resident manager in the same building, facility, or residence.

ZONE: An established area within the City of Newport for which the provisions of this ordinance are applicable. The word "Zone" shall also be synonymous with the word "District".

ZONING ADMINISTRATOR: The official or officials appointed by the City of Newport for carrying out the provisions and enforcement of this ordinance.

(Am. Ord. O-2008-018, passed 9-8-2008; Am. Ord. O-2016-024, passed 12-12-2016)

ARTICLE VIII ESTABLISHMENT OF ZONES

SECTION 8.0 ZONES:

For the purpose and intent of this ordinance, the City of Newport, Commonwealth of Kentucky, is hereby divided into the following zones:

C O CONSERVATION ZONE

R 1 SINGLE FAMILY DETACHED ZONE

R-2H SINGLE-FAMILY ATTACHED HILLSIDE

R-2 SINGLE-FAMILY ATTACHED AND TWO-FAMILY ZONE

R-3 SINGLE-FAMILY ATTACHED AND TWO-FAMILY ZONE

R-4 TWO-FAMILY, MULTI-FAMILY, AND PUD ZONE

R-5 MULTI-FAMILY AND PUD ZONE

RFD RIVERFRONT DISTRICT ZONE

CBDF CENTRAL BUSINESS DISTRICT FRINGE ZONE

CBD CENTRAL BUSINESS DISTRICT ZONE
 SC SHOPPING CENTER ZONE
 NC NEIGHBORHOOD COMMERCIAL ZONE
 PO PROFESSIONAL OFFICE ZONE
 I 1 INDUSTRIAL ZONE ONE
 I 2 INDUSTRIAL ZONE TWO
 CCO CITY CENTER OVERLAY
 URO URBAN RESIDENTIAL OVERLAY
 PUD PLANNED UNIT DEVELOPMENT
 SOD SIGN OVERLAY DISTRICT
 TZD TRANSITIONAL ZONE

(Am. Ord. O-2012-006, passed 3-12-2012)

SECTION 8.1 OFFICIAL ZONING MAP:

The zones are bounded and defined as shown on the map entitled "OFFICIAL ZONING MAP OF THE CITY OF NEWPORT, KENTUCKY" and shall so remain on file in the City Building of the City of Newport in the Office of Community Development.

SECTION 8.2 CHANGES ON ZONING MAP OR MAPS:

If, in accordance with the provisions of this ordinance and Kentucky Revised Statutes, changes are made in zone boundaries or other matters portrayed on the Official Zoning Map (or maps), such changes shall be made on the Official Zoning Map (or maps) by the Zoning Administrator promptly after the amendment to this ordinance has been notified by a certified copy of said amendment in ordinance form. No building, structure, sign or fence permit shall be approved or issued until the OFFICIAL ZONING MAP, (or maps) indicate the proper zoning for the use intended as indicated upon the application for a permit.

No changes of any nature shall be made on the Official Zoning Map (or maps) or matter shown thereon which are not in conformity with the procedures set forth in this ordinance.

Regardless of the existence of purported copies of the Official Zoning Map (or maps), the OFFICIAL ZONING MAP, which shall be located in the office designated by law, shall be the final authority as to the current zoning status of land, buildings and other structures in the City of Newport, Commonwealth of Kentucky.

SECTION 8.3 REPLACEMENT OF OFFICIAL ZONING MAP OR MAPS:

In the event that the Official Zoning Map (or maps) becomes damaged, destroyed, lost or are deemed necessary to replace due to the age of the map or major corrections in location of rights of way or subdivisions, the City of Newport shall have cause to have prepare a new Official Zoning map (or maps).

SECTION 8.4 RULES FOR INTERPRETATION OF ZONE BOUNDARIES:

Rules for interpretation of zone boundaries shown on the Official Zoning Map (or maps) are as follows:

- A. Boundaries indicated as approximately following the rights of way of a street, alley or other public way shall be construed to follow such rights of way lines and when said rights of way are officially vacated the zones bordering such rights of way shall be extended out to the center line of said vacated rights of way;
- B. Boundaries indicated, as approximately following plotted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated, as approximately following political boundary lines shall be construed as following such boundary lines;
- D. Boundaries indicated, as approximately following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines or other bodies of water shall be construed to follow such centerlines;
- F. Boundaries indicated as approximately parallel to features indicated in Rules A through E, of this section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features indicated in Rules A through E, of this section, shall be construed as being extensions of such features. Distances not specifically indicated on the Official Zoning Map (or maps) shall be determined by the scale of the map (or maps), if an accurate legal description cannot be determined from the original zoning case.

SECTION 8.5 AREAS NOT INCLUDED WITHIN ZONES:

In any case where property has not been included within a zone, such property shall be considered to be in the C O zone (CONSERVATION ZONE) until otherwise classified.

ARTICLE IX GENERAL REGULATIONS

SECTION 9.0 PURPOSE:

General regulations apply to all Districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

SECTION 9.1 REDUCTION IN BUILDING SITE AREA:

Notwithstanding other provisions of this Ordinance, no lot, in any zone, may be reduced in area below the minimum lot area as specified herein for the zone within which said lot is located except where such reduction has been brought about by the expansion or acquiring of rights of way for a street, road, or highway. If, however, by some means (e.g., misinterpretation of law, erroneous lot descriptions, etc.) the lot area is reduced below the minimum required lot area as specified herein for the zone, all of the uses and structures contained on the remaining portion of the area shall be subject to compliance with all provisions of this ordinance. In the event that the uses and structures cannot comply in such circumstances, the property owner shall seek relief from the Board of Adjustment as provided for in Section 18.5 of this ordinance.

SECTION 9.2 INTERFERENCE WITH TRAFFIC SIGNALS:

Notwithstanding other provisions of this ordinance, in any zone, no sign, structure, tree, planting or vegetation or any portion thereof shall protrude over or into any street, road, or highway so as to create confusion around, or otherwise interfere with, traffic signals of any kind.

SECTION 9.3 VISION CLEARANCE AT CORNERS, CURB CUTS, AND RAILROAD CROSSINGS:

Notwithstanding any part of this ordinance or any permit granted, or any variance granted by the Board of Adjustment; no type of structure, vehicle, tree, planting, vegetation, sign, or fence or any type of obstacle or any portion thereof shall be placed or retained in such a manner which would create a traffic hazard or would obstruct the vision clearance at corners, curb cuts, or railroad crossings in any zone.

SECTION 9.4 FRONTAGE ON CORNER LOTS AND DOUBLE FRONTAGE LOTS:

On lots having frontage on more than one street, in any zone, the minimum front yard shall be provided for each street, road, or highway in accordance with the provisions of this ordinance.

SECTION 9.5 UTILITIES LOCATION:

Electrical transformer stations, gas regulator stations, sewage and water treatment plants, pumping stations, standpipes for public water supply and other similar utility uses may be located in any zone subject to the approval of the Board of Adjustment as set forth in Section 9.13 of this ordinance. The location of such facilities shall be in accordance with Kentucky law and the following requirements shall be complied with:

- A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the above element is a part.
- B. A building or structure, except an enclosing fence, shall be set back at least fifty (50) feet from any property line.
- C. Such facilities shall be enclosed by a protective fence as regulated by Article XII.
- D. Open spaces on the premises shall be suitably landscaped and maintained and a screening area according to Section 9.16 of this ordinance may be required in and along any yard.
- E. The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.
- F. The surrounding area shall not be adversely affected by, and shall be protected from noise, odor, glare, dust, gas, smoke and vibration by such suitable means and conditions as the Board of Adjustment may specify.

SECTION 9.6 RAILROAD RIGHT OF WAY LOCATION:

Railroad rights of way, exclusive of such uses as marshaling yards, passenger and freight terminals, maintenance shops, fueling facilities and round houses, may be located in any zone of this ordinance providing said rights of way meet the requirements of those sections of the Kentucky State Law which regulates such uses.

SECTION 9.7 EXCAVATION OR MOVEMENT OF SOIL:

Notwithstanding other provisions of this ordinance, no governmental entity or other person or entity shall strip, excavate, fill, or otherwise move soil for sale or for any other purpose, except for minor changes such as the filling of small pockets in lots, flower beds and other similar operations, in any zone set forth in this ordinance without first insuring that all requirements of the Subdivision Regulations of the City of Newport, if applicable, have been fulfilled and then obtaining a permit from the Building Department for such stripping, excavating, filling, or other means of soil movement. The Building Department shall issue the required permit only after being informed by letter from the City of Newport's Engineer that the resulting change of grade in the affected area will not be against the best interests of the local area. The provisions of this section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this ordinance, but shall include all road cuts thereto.

SECTION 9.8 UNSIGHTLY OR UNSANITARY STORAGE:

No rubbish, salvage materials, junk or miscellaneous refuse shall be openly stored or kept in the open and no weeds shall be allowed to go uncut within any zone when the same may be construed to be a menace to public health and safety by the appropriate Health Department, or have a depressing influence upon property

values in the neighborhood, in the opinion of the Zoning Administrator. Regular salvage and junkyards shall be adequately enclosed with a solid fence or wall as regulated by Article XII of this ordinance and an approved permanent planting screen may be required as regulated in Section 9.16 of this ordinance.

SECTION 9.9 JUNKYARD LOCATION:

No person shall operate or cause to operate any junkyard which is situated closer than two thousand (2,000) feet to the center line of any county, state, federal or limited access highway or turnpike, including bridges and bridge approaches unless a permit for such operation shall have been obtained from Kentucky Department of Highways in accordance with KRS 177.905 to 177.950.

SECTION 9.10 APPLICATION OF ZONING REGULATIONS:

A. Except as hereinafter provided, no public or private structure, except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, shall be erected, reconstructed, or structurally altered, nor shall any public or private structures of land, except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, be used for any purpose other than that permitted in the zone in which such structures or land is to be located or is located. All of the required lot area shall be in one (1) zone.

B. Except as hereinafter provided, no public or private structures except the service facilities of Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, shall be erected, reconstructed, or structurally altered to exceed the height of bulk limit herein established for the zone in which such structure is to be located or is located.

C. Except as hereinafter provided, no lot areas shall hereafter be so reduced or diminished that the yards or other open spaces shall be smaller than described by this ordinance and no building shall be occupied by more families than prescribed for such building, structure, or premises for the zone in which it is located.

D. Except as herein provided, no part of any yard, or other open space, or off street parking or loading and/or unloading space about or in connection with any building, structure, or use permitted by this ordinance shall be considered to be part of a required yard, or other open space, or off street parking or loading space for any other building, structure or use.

E. Every public or private building or other structure hereafter erected shall be located on a lot as herein defined and in no case shall there be more than one (1) principal building and permitted accessory structures on one (1) lot, except as hereinafter provided, nor shall any building be erected on any lot which does not abut at least twenty five (25) feet on a deeded and accepted public right of way.

F. Accessory structures and uses including off street parking and loading and/or unloading areas shall not be permitted within any required minimum front yard or side yard (on each side of the lot) except in SC, PO, RFD, and CBD zones as provided herein. Accessory structures and uses including off street parking and loading and/or unloading areas shall be permitted to be extended into the minimum rear yard area, as defined herein, in all zones, but by never more than ten (10) feet.

G. Permitted Obstructions in Minimum Required Yards or Courts:

Except as herein provided, the following shall not be considered to be obstructions when located in the required minimum yards or courts specified:

1. In all Minimum Required Yards or Courts awnings and canopies; driveways providing they are not closer than one (1) foot to the property line to which they run approximately parallel to; steps four (4) feet or less above grade and projecting not more than four (4) feet into the minimum required yards which are necessary for access to a lot from a street or alley; fire escapes, chimneys, and air conditioning equipment projecting eighteen (18) inches or less into the minimum required yards; arbors and trellises, flag poles, and bird baths, fences and walls subject to the requirement in Article XII of this ordinance.

2. In Minimum Front Yard Depths one story bay windows projecting three (3) feet or less into the minimum required yard; overhanging eaves and gutters projecting three (3) feet or less into the minimum required rear yard.

3. In Minimum Rear Yard Depths one story bay windows projecting three (3) feet or less into the minimum required rear yard; overhanging eaves and gutters projecting three (3) feet or less into the minimum required rear yard.

4. In Minimum Side Yard Width overhanging eaves and gutters projecting eighteen (18) inches or less into the minimum required side yard.

SECTION 9.11 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE:

A. NONCONFORMING LOTS OF RECORD:

1. Any lot of record, which does not meet the requirements of this ordinance, shall be considered a nonconforming lot of record.

2. If two (2) or more unimproved lots or combinations of lots and portions of lots with continuous frontage are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, the land involved shall be considered to be an undivided parcel for the purpose of this ordinance, and no portion of said parcel shall be sold for purposes of building which does not meet lot width and area development requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

3. Where a single nonconforming lot of record exists having a lot area less than required by the particular zone wherein said lot is located, development may be permitted on the lot, provided: the lot is located on an existing and improved public street; the lot is of separate ownership from all adjacent and contiguous parcels; the adjacent and contiguous parcels exist as developed building lots or dedicated street right of ways precluding acquisition of additional area to achieve conformity; and development proposed on the lot is in conformance with all other requirements of this Ordinance.

B. NONCONFORMING USES:

1. CONTINUANCE: Except as herein specified, the lawful use of any public or private structure or land existing at the time of the adoption of this ordinance may be continued although such use does not conform to the provisions of this ordinance, however, no nonconforming use may be enlarged or extended unless and until the use is brought into conformance with all provisions of this Ordinance.

2. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: Any nonconforming use may be changed to another nonconforming use providing the new nonconforming use is in the same or a more restrictive classification (i.e., providing that, in the opinion of the Board of Adjustment, the new nonconforming use will be more in conformance with the intent of the regulation of the zone affected, than the old nonconforming use).

3. **TERMINATION:** Any one of the following acts or conditions shall terminate, immediately, the right to operate a public or private nonconforming use:
 - a. Changing to a conforming use.
 - b. Abandonment. Abandonment shall be deemed to have occurred when the nonconforming activity ceases to operate and/or the premises are vacated so as to leave the property unoccupied for a period of at least six (6) consecutive calendar months.
 - c. Nonoperative or nonused for a period of one (1) calendar year or more.
 - d. Whenever said nonconforming use becomes illegal, a nuisance, or a hazard to the public's safety, health, and welfare.
 - e. Whenever said nonconforming use becomes the property of the City of Newport, Commonwealth of Kentucky, or any other governmental entity.
4. **ZONE CHANGE:** The foregoing provisions shall apply to uses, which become nonconforming due to zone changes which take place hereafter.

C. NONCONFORMING STRUCTURES:

1. **CONTINUANCE:** Except as herein specified, any public or private nonconforming structure may be occupied, operated and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this ordinance.
 2. **TERMINATION:** Any one of the following acts or conditions shall terminate, immediately, the right to operate a public or private nonconforming structure:
 - a. Changing to a conforming structure.
 - b. Abandonment. Abandonment shall be deemed to have occurred when the nonconforming activity ceases to operate and/or the premises are vacated so as to leave the property unoccupied for a period of one (1) calendar year or more.
 - c. Nonoperative or not used for a period of one (1) calendar year or more.
 - d. Whenever said nonconforming use becomes illegal, a nuisance, or a hazard to the public's safety, health, and welfare.
 - e. Whenever, with the exception of the City of Newport, any other governmental entity, acquires title to said nonconforming structure or the land upon which it is located.
 3. **ZONE CHANGE:** The foregoing provisions shall apply to uses, which become nonconforming due to zone changes which take place hereafter.
- D. REPAIRS AND MAINTENANCE:** On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the market value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Am. Ord. O-2016-024, passed 12-12-2016)

SECTION 9.12 EXCEPTIONS AND MODIFICATIONS:

A. EXCEPTIONS TO HEIGHT LIMITS:

1. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smoke stacks, radio and television towers, conveyers, flag poles, masts and aerials, penthouses, scenery lofts, standpipes, parapet walls, outdoor theater screens, other related structures and necessary mechanical appurtenances; provided their construction is in accordance with existing or hereafter adopted ordinances of the City of Newport, Commonwealth of Kentucky, and is acceptable to the Federal Aviation Agency and the Federal Communication Commission.
2. In the districts where permitted as conditional uses, public or semipublic buildings or hospitals may be erected to a height not exceeding seventy five (75) feet when the front, side and rear yards are increased an additional foot for each foot such buildings exceed the maximum height permitted in that district.

B. AREAS EXCEPTIONS:

1. For the purpose of side yard regulations the following dwellings with common party walls shall be considered as one (1) building occupying one (1) lot: Two family and multi family dwellings.
2. In the case of multi family dwellings, side yards may be used as rear yards provided that:
 - a. The required side yard shall be increased by one (1) foot for each entrance or exit opening into or served by such yard.
 - b. The width of the court shall not be less than two and one half (2 1/2) time the width of the side yard as required in the district in which such court apartments or multi dwellings are located.
 - c. Where a roadway is provided in the court, the width allowed for such roadway shall be in addition to that required in the foregoing regulation.
 - d. All other requirements, including front, side and rear yards shall be complied with in accordance with the regulations of the district in which such court apartments or multi family dwellings, are located.
 - e. Every part of a required minimum yard or court shall be open from its lowest point to the sky unobstructed, except for permitted obstructions in minimum required yards as specified in Section 9.10 (G) of this Ordinance.

C. OTHER EXCEPTIONS: Service stations or gasoline filling stations shall be so constructed that the center lines of the pumps shall be at least twenty five (25) feet from any street right of way lines.

D. FRONT YARD VARIANCE:

1. In any zone where the average depth of existing front yards within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front yard depth prescribed elsewhere in this ordinance, the required minimum front yard depth on such lot shall be modified to be the average depth of said existing front yards provided, however, that the depth of the front yard on and such lot shall not be greater than sixty (60) feet.

2. In any residence zone, no front yard shall be required to exceed the average depth of existing front yards on lots abutting on each side of the street, or the average depth of existing front yards on the same side of the street within the same block and within two hundred (200) feet when fifty one percent (51%) or more of said lots are improved with residence buildings, whichever is greater; provided that in no case shall a front yard be less than twelve (12) feet.

E. INDUSTRIAL AND COMMERCIAL AREAS: Existing permitted uses and existing conditionally permitted uses located in industrial zones (I 1 AND I 2) and commercial zones (CBD, CBDF, RFD, SC, NC, and PO) may be enlarged although the minimum required lot area for said use is less than required by this Ordinance, provided that site plans are submitted and approved by the zoning administrator. Such expansion may only be permitted if all other applicable requirements of this Ordinance are complied with.

SECTION 9.13 CONDITIONAL BUILDINGS AND USES:

A. DETERMINATION: The Board of Adjustment may authorize a conditional building and use to be located within any zone in which the particular conditional use is permitted by the use regulations of this Ordinance, if the evidence presented by the applicant is such as to be established by preponderance of the evidence:

1. That the proposed building and use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community, and

2. That such building and use will not, under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity, and

3. That the proposed building and use will comply with any regulations and conditions specified in this Ordinance for such building and use.

B. CONDITIONAL USE PERMITS: In accordance with KRS 100.237 the Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met:

1. The Board of Adjustment may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, said conditional use permit shall be recorded in the office of the County Clerk and one (1) copy of said permit attached to the deed for the property for which it is issued. The Board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

2. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this Ordinance, the building code, housing code and other regulations of the City of Newport.

3. In any case where a conditional use permit has not been exercised within the time limit set by the Board or within twelve (12) consecutive calendar months from date of issuance, such conditional use permit shall not revert to its original designation unless there has been a public hearing. Exercised as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement has been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development or completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

4. The Zoning Administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure when the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the Zoning Administrator shall report the fact in writing to the chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the Board of Adjustment. The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustment finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply with time between the date of the report and the date of the hearing, the Board of Adjustment may authorize the Zoning Administrator to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

5. Once the Board of Adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the Zoning Administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS 100.344. Thereafter said use, if it continues to meet the other requirements of this Ordinance, will be treated as a permitted use.

6. When an application is made for a conditional use permit for land located within or abutting any zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, and owners of every parcel of property adjoining the property to which the application applies. Written notice shall be by first class mail with certification by the board's secretary that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group, which administers property commonly, owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

C. RE-USE OF PREVIOUSLY APPROVED OR "GRANDFATHERED" CONDITIONAL USE STRUCTURES: To prevent the abandonment of conditional use structures and to promote their adaptive re-use in all zones within the city, previously approved or "grandfathered" conditional use structures may, subject to the approval of the Board of Adjustments, be approved as a new conditional use allowing higher residential density than the underlying zone would permit, the operation of a commercial, non-industrial, use or a combination of both subject to the following restrictions:

1. Screening pursuant to Section 9.16;
2. Development Plan requirements of Section 9.19;
3. Fences, walls and obstruction to view requirements of Article XII;
4. Sign regulations pursuant to Article XV;

5. In residential zones, the permitted commercial uses shall be compatible with the surrounding zone;
6. The adaptive re-use shall be located within the existing conditional use structure; and
7. Parking per Section 13.1.

(Am. Ord. O-2008-019, passed 9-8-2008; Am. Ord. O-2016-024, passed 12-12-2016)

SECTION 9.14 BUILDING REGULATIONS:

No structure shall be designed, erected or altered except in accordance with the following regulations:

A. ALL ZONES:

1. **MINIMUM GROSS FLOOR AREA:** No dwelling unit shall have a gross floor area as defined in Section 7.0, herein, of less than six hundred (600) square feet; provided and except, however, that in residential zones minimum gross floor areas shall not be less than the following:

**TABLE 1
MINIMUM GROSS FLOOR**

ZONE	TYPE OF DWELLING UNIT	AREA IN SQUARE FEET
R 1, R-2, R-3	Single family, one bedroom	650(1)
R 1, R-2, R-3	Single family, two bedrooms	800(1)
R 1, R-2, R-3	Single family, three bedrooms	900(1)
R 1, R-2, R-3	Single family, four bedrooms	1000(1)
R 2, R-3, R-4, R-5	Efficiency Apartment	400

(1) Two family dwelling amount equal to combined minimum gross floor area of equivalent single-family unit.

2. **PUBLIC WATER AND SANITARY SEWERS:** No building may be constructed in any zone unless such building is connected to a public water and centralized sanitary sewer system and approved by the proper authorities.

3. APPROVAL REQUIRED FOR COMBINING STRUCTURES.

A. Where two or more structures share a common wall said common wall shall not be altered in any manner, which would provide access through said common wall from one structure to another. This shall include any type of opening through said common wall until all requirements of the subdivision regulations of the City have been met and approval has been granted by the Planning Commission and the Board of Adjustments.

B. Where two structures are separate and remote said structures shall not be joined or combined until all requirements of the Subdivision Regulations of the City have been met and approval has been granted by the Planning Commission and the Board of Adjustments.

SECTION 9.15 MOVE AND SET:

A. No building, structure or improvement shall be moved or set from or upon land located in any area or transported upon any public street, road or highway in the City of Newport until and unless a building permit to move and set and a transport permit has been obtained therefore and said building, structure or improvement complies with the provisions of this section.

B. All buildings, structures and improvements shall comply with the City of Newport's Building Code.

C. PROCEDURE:

1. Any person who wishes to obtain a building permit, to move and set in compliance herewith shall apply at the office of the Building Inspector requesting an inspection of the building, structure or improvement to be moved and set, and that an application for such permit be filed with the Building Inspector.

2. The applicant shall submit, with his application for said building permit, a plot plan, footing and foundation plan and construction plans for any new construction. Said plans shall comply with the City of Newport's Building Code.

3. If the building, structure or improvement is located in the City of Newport, all outstanding property taxes shall be paid and the applicant shall submit with his application a statement from the City of Newport's Director of Finance showing that all past and current taxes have been paid before any permit shall be issued.

4. Upon receipt of the foregoing items, the Building Inspector shall inspect said building, structure or improvements, and the proposed location where same will be set within the City of Newport and determine that the proposed development complies with the Building Code.

5. The move and set shall be referred to the Zoning Administrator for approval or denial of compliance with this ordinance.

6. Upon approval by the Zoning Administrator and Building Inspector, a permit shall be issued to permit the move and set. The City of Newport Engineer shall then be notified of same and shall issue a transport permit. The City of Newport's Engineer or his agent will designate the route to be traveled. The transport permit is good only for the date specified on permits except Saturday, Sunday or holidays. The transport permit will not be issued if ninety (90) consecutive calendar days or more have lapsed from the date of inspection by the Building Inspector.

7. There will be a building permit fee of two hundred fifty dollars (\$ 250) to cover the costs of investigation and inspection for determining the structural soundness of buildings, structures, or improvements to be moved, which fee is payable in advance and must accompany the application provided for herein. The inspection shall determine what will be necessary to bring buildings, structures, or improvements into compliance with the City of Newport Building Code, and this Ordinance, a building permit will be issued at the regular fees as determined by the valuation of said building, structure, or improvements as published in the Building Code. This fee is in addition to the two hundred fifty dollars (\$ 250) fee first listed.

8. The transport permit provided for in this section shall not be in lieu of any building permits, which may be required by the City.

9. No transport of building permit to move and set shall be issued until the applicant has first obtained the necessary permits from the telephone company, public utilities companies, railroad companies and the State Highway Department of Kentucky and the Campbell County Road Supervisor unless it can be shown by the applicant that these agencies are not interested in the matter.

10. No transport of building permit to move and set shall be issued for any building, structure or improvement in the City of Newport until and unless such person, corporation or company shall post with the Building Inspector a good and sufficient indemnity bond in the amount of five thousand dollars (\$5,000) in favor of the City of Newport.

Such bond shall be made by a Surety Corporation authorized to do business in the Commonwealth of Kentucky; said bond may be issued on an annual basis but shall not be in excess of such period of time.

SECTION 9.16 SCREENING AREA:

A. General: All screening areas, where required, in and along any yard, shall consist of a landscaped planting strip at least ten (10) feet in width, planted within the boundaries of such strip with a hedge or similar vegetation or suitable fences approved by the Zoning Administrator or the Planning and Zoning Commission if required by this Ordinance. Hedges and fences as required by this section shall be of a height suitable for screening as approved by the Zoning Administrator (or the Planning and Zoning Commission if required by this Ordinance). All landscaping and screening improvements shall be maintained by the property owner.

B. In transitional yards separating residential districts from commercial and/or industrial uses, the requirements for screening shall be as follows:

1. Where a front yard abuts a street on the opposite side of which is a Residential District, the front yard may include off street parking provided a ten (10) foot wide strip of said required front yard, paralleling and measured from the front lot line, and extending the full length thereof (except for walks, access cuts, and driveways) shall be maintained as a landscaped portion of the yard in conformance with paragraph 9.16 B.

2. Where a side or rear lot line abuts either a side or rear lot line in an adjacent Residential District, a side or rear yard setback not less than fifteen (15) feet in depth shall be provided along such side or rear lot line.

Provided however, where a dedicated alley separates such side or rear lot line from the Residential District, said side or rear yard and setback shall not be less than ten (10) feet.

3. Transitional Yard Exception: The transitional yard requirements of paragraph 9.16(A) shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful non conforming use, exists upon such adjoining property or abutting frontage property, although residentially zoned.

C. Screening and Landscaping Transitional Yards:

1. Front transitional yards (fronting upon a Residential District) or for new parking lots within residential zones, shall be landscaped in an open pattern, in grass and shrubbery, trees and/or hedge to provide a partial screening of the use. An ornamental, decorative fence not more than two and one half (2 1/2) feet in height if solid, or six (6) feet if more than fifty (50) percent open, may be used in conjunction with the landscaping. Provided, however, along any portion of said transitional front yard in which an off street parking area is located there shall be provided and maintained along the front lot line a buffer screen of either:

Architectural Screen a wall or fence of ornamental block, brick, wrought iron fencing, or combination thereof. Said wall or fence shall be at least 42 inches in height and shall be so constructed to such minimum height to restrict any view there through, or

Plant Material Screen a compact hedge of evergreen or deciduous shrubs, at least 36 inches in height at the time of planting. Ground area between such wall, fence or hedge and the front lot line shall be planted and maintained in grass, other suitable ground cover, shrubbery and/or trees. All shrubs and trees shall be planted balled and burlapped and shall meet the standards of the American Association of Nurserymen. To provide maximum flexibility in the landscape design of side screen and ground area, a variety of plant material may be used, provided, however, that a plan indicating the species, variety, size, spacing and location of all plants shall be filed with the Zoning Administrator and approved by him prior to the time of planting.

2. Side and rear transitional yards (abutting residential districts) shall be landscaped in grass and shrubbery, trees and/or hedge to form an effective screening of the use. An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping. Provided, however, if any portion of a side or rear transitional yard is used for a driveway or off street parking area, there shall be provided and maintained along the entire length of such lot line to the front setback line, a wall or fence of ornamental block, brick, solid wood fencing, or combination thereof. Said wall or fence shall be at least six (6) feet in height and shall be so constructed to such height to restrict any view there through.

D. Landscaping Installation and Maintenance:

1. Installation all landscaping required by this section shall be installed prior to the issuance of a building occupancy permit if said permit is issued during a planting season, or within six (6) months of the date of an occupancy permit is issued if issued during a non planting season.

2. Maintenance it shall be the responsibility of the owners and their agencies to ensure proper maintenance of the landscaping, in accordance with the landscape plan approved by the Planning and Zoning Commission. This is to include, but is not limited to, replacing dead plantings with identical varieties or a suitable substitute, and keeping the area free of refuse and debris.

3. Safety - in no instance shall plant materials which overhang a public right-of-way have a clearance of less than fourteen feet from the lowest limb of the plant to the pavement surface of the right-of-way (see Section 12.0 for requirements for maintaining proper sight-distance).

4. Changes After Approval no landscaping which has been approved by the Planning and Zoning Commission or the Tree Board may later be substantively altered, eliminated, or sacrificed, without first obtaining further Plan Commission and Tree Board Approval.

5. Inspection the Planning and Zoning Commission, Zoning Administrator, or their duly appointed representative, shall have the authority to visit any areas screened under the requirements of this section to inspect the landscaping and check it against the approved plan on file.

SECTION 9.17 OUTDOOR SWIMMING POOLS: PRIVATE

All private swimming pools shall be regulated according to the following requirements:

1. Swimming pools shall be permitted to be located only to the rear of the principal permitted dwelling or dwellings.

2. Except as herein provided, no swimming pool, including the apparatus and equipment pertaining to the operation of the swimming pool shall be permitted within any required yards of the lot and shall be a minimum of three (3) feet from any side yard lot line, nor within the limits of any public utility right

of way easement.

3. The swimming pool or the property on which the pool is located shall be surrounded by a fence or wall (only classes 1, 3, 4, and 5 are permitted as regulated in Article XII of this Ordinance) at least five (5) four (4) feet in height but not exceeding a height of seven (7) feet and of such construction that a small child may not reach the pool from the street or from any adjacent property without opening a door or gate or scaling a wall or fence.

4. Glare from floodlights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties.

5. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool shall be constructed and erected in accordance with all applicable codes, ordinances and regulations of the City of Newport. Any water used in the operation of a swimming pool, other than from a public source, shall be approved of by the appropriate Health Department.

SECTION 9.18 OUTDOOR SWIMMING POOLS: PUBLIC, SEMI PUBLIC AND COMMERCIAL:

All public, semipublic and commercial swimming pools shall be regulated according to the following requirements:

1. Except as herein provided, no swimming pool including the apparatus and equipment pertaining to the operation of the swimming pool shall be permitted within any required yards of the lot, or closer than twenty-five (25) feet from any abutting property, or within the limits of any public utility right of way easement.

2. The swimming pool or the property which the pool is located shall be surrounded by a fence or wall (only classes 1, 3, 4, and 5 are permitted as regulated by Article XII of this Ordinance) at least five (5) four (4) feet in height, but not exceeding the height as herein required, and of such construction that a small child may not reach the pool from the street or from any adjacent property without opening a door or gate or scaling a wall or fence.

3. Glare from floodlights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties.

4. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool shall be constructed and erected in accordance with all applicable codes, ordinances and regulations of the City of Newport. Any water used in the operation of a swimming pool, other than from a public source, shall be approved of by the appropriate Health Department.

5. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent residential properties through the emission of noise, voices, or music which is loud enough to cause complaints from said adjacent residential property owners.

SECTION 9.19 DEVELOPMENT PLAN REQUIREMENTS:

No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel in districts where a development plan is required (except for those activities that are defined as exempt from these requirements according to paragraph 2 under this section) without first obtaining the approval of a development plan as hereinafter required:

1. Before a permit is issued for construction, one (1) copy of the development plan of the area at a scale of no smaller than one (1) inch equals one hundred (100) feet shall be filed with the Building Inspector and the Zoning Administrator setting forth, identifying and locating the following:

- a. Total area in development project including legal description.
- b. Present zoning of property in question and adjacent properties.
- c. All public and private rights of way and easement lines located on and adjacent to the property which are proposed to be continued, created, relocated or abandoned.
- d. Existing topography with a maximum of two foot contour intervals. Where existing ground is on a slope of less than two percent (2%) either one foot contours or spot elevations where necessary, but not more than fifty (50) feet apart in both directions. Soil classification shall also be indicated along with the source from which soil classification was obtained.
- e. The proposed finish grade of the development area shown by contours with intervals not larger than two (2) feet, supplemented where necessary by spot elevations.
- f. The location of every existing and proposed building in the described parcel or parcels, the use or uses to be contained therein, the number of buildings including dimensions and height, the gross floor area and number of floors.
- g. Location and dimension of all curb cuts, curbing, driving lanes, off street parking and loading and/or unloading areas including number of spaces, angle of stalls, grades, and illumination facilities.
- h. All walks, malls, and other open areas.
- i. Location of all walls, fences, and screening plantings.
- j. Location, size, height and orientation of all signs.
- k. Types of surfacing proposed on the various off street parking and driveways including cross sections and drainage plans.
- l. Location of all existing and proposed streets, highways, and alleys.
- m. All existing and proposed water and sanitary sewer lines, indicating pipe sizes, types and grades.
- n. A drainage plan of the area showing size and location of each existing and proposed structure. The approximate volume of water generated by development of the subject area and the proposed method of disposing of said water. Provisions shall be included for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading and construction.
- o. A schedule of development including the staging and phasing of:
 1. Residential areas, in order of priority, by type of dwelling unit;
 2. Streets, utilities, and other public facility improvements in order of priority;

3. Dedication of land to public use or set aside for common ownership with a preliminary statement indicating how maintenance of the latter will be handled; and

4. The construction of nonresidential buildings, in order of priority.

p. Such other information with regard to the development area as may be required by the Planning and Zoning Commission to determine conformance with this Ordinance.

q. A Landscaping Plan showing the location, orientation, height, caliper, and type of vegetation to be used.

All such development plans shall be reviewed by the Planning and Zoning Commission or its duly authorized representative, and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this or other applicable sections of this Ordinance, and the Comprehensive Plan for the City of Newport. All development plans approved shall be binding upon the applicants, their successors and assigns and shall limit the development to all conditions and limitations established in such plans. Amendments to plans may be made in accordance with the procedure required by this Ordinance subject to the same limitations and requirements as those under which such plans were originally approved. After final approval the subject area may be developed in stages, providing all of the procedures required by the Planning and Zoning Commission, or its duly authorized representatives, have been complied with.

2. A. Where necessary the Planning Commission may ask a developer to post a Bond in anticipation any damage that may occur to a street by construction traffic. This shall apply to all City owned roadways.

a. Applicant must identify truck routes.

b. Applicant must photograph existing conditions prior to project.

c. Applicant must post bond.

B. For construction off state routes a developer will submit a letter of understanding and meet all requirements of the state.

3. The new construction or substantial remodeling of a single residential one or two family unit shall be exempt from the requirements of Section 9.19, Development Plan Requirements. Except houses for the hillside development guideline area.

SECTION 9.20 REGULATIONS CONCERNING AIR RIGHTS:

Any proposed use of air rights, as defined herein, shall be in the form of a development plan (as regulated in Section 9.19 of this Ordinance) submitted to the Planning and Zoning Commission, or its duly authorized representative, for its review.

SECTION 9.21 FLOOD PROTECTION DEVELOPMENT CONTROLS:

A. Purpose: The purpose of the flood protection development control is:

1. To permit only that development of flood prone areas which: (a) is appropriate in light of the probability of flood damage and the need to reduce flood losses, (b) is an acceptable social and economic use of the land in relation to the hazards involved, and (c) does not increase the danger to human life; and

2. To prohibit all other development in flood prone areas not identified in Subsection A, 1, above, including nonessential or improper installation of public utilities and public facilities.

B. Areas of land adjacent to streams, rivers, or bodies of water, which have a high degree of susceptibility to flooding, shall be limited to development according to the following regulations, notwithstanding any other section of this Ordinance or any other ordinance adopted by the City.

1. The limits of the floodplain (areas subject to flooding during the occurrence of a 100 year flood) and floodway are identified as Flood Protection Control Areas, on the zoning map, pursuant to the Newport Flood Insurance Study prepared by the Federal Insurance Administration.

2. Areas designated as susceptible to flooding during the occurrence of a 100 year flood shall be controlled by both the zoning district in which the area is located and the requirements of this section of the Ordinance. Flood data within this section identifies the elevation of the 100 year flood level and the width of the floodway as follows: (Figure A Ohio River and Licking River, Figure B Woodlawn Creek and Woodlawn Tributary 2). In the case of any proposed activity located along other tributaries or bodies of water not covered in these tables, and located in those areas which are identified as being susceptible to flooding, according to the report prepared by the U.S. Department of Agriculture, Soil Conservation Service, "Soil Survey of Boone, Campbell, and Kenton Counties, Kentucky", August, 1973, a survey shall be made by a qualified registered civil engineer establishing the elevation of the 100 year flood and floodway for said areas prior to the issuance of any zoning and building permits.

3. No person, City, county, or other political subdivision of the state shall commence filling of any area with earth, debris, or any other material or raise the level of any area in any manner, or place a building, barrier, or obstruction of any sort on any area, including making any alteration or relocation of a waterway, located within the floodway which would result in any increase in flood levels during the occurrence of a 100 year flood discharge. In those cases where a watercourse is to be altered or relocated, the flood carrying capacity of said portion of the waterway affected must be maintained. Plans and specifications for such work shall be submitted to the City engineer for review to determine if said encroachment will meet the requirements of this Ordinance. Said plans shall also be submitted to the Kentucky Department of Natural Resources & Environmental Protection, Division of Water Resources, and other applicable agencies, for their review and approval. Mobile homes shall be prohibited from being placed within the floodway.

4. All land outside the floodway of the bodies of water identified in Paragraph 2, but located within the floodplain, may be used for any purpose for which it is zoned, providing that: any new residential construction including any expansion or substantial improvements of existing residential structures as herein defined within said floodplain shall have the lowest floor which is used for living quarters elevated to or above the level of the 100 year flood; and any new nonresidential structures including any expansion or substantial improvements of nonresidential structures within the floodplain area shall have the lowest floor elevated to or above the level of the 100 year flood or together with attendant utility and sanitary facilities shall be designed and flood proofed so that below the 100 year flood level the structure is water tight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrostatic and hydrodynamic loads and effects of frequency certified by a professional engineer or architect.

5. For purposes of this section of the Ordinance, "Substantial Improvement" means any repair, reconstruction, or improvement which occurs as a result of damage to the structure the cost of which equals or exceeds fifty percent (50%) of the actual market value of the structure before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.

6. All utilities constructed to serve structures which are to be located within the floodplain shall be flood protected at a minimum to the elevation of the 100 year flood level.

7. All construction or modification of building and structures including flood proofing measures and techniques in the floodplain area, as required within this section of the Ordinance, shall be in accordance with the applicable design standards of the U.S. Army Corps of Engineers' publication, entitled "Flood Proofing Regulations", June, 1972 GPO 19730 505 026 Edition, or as amended, and the following requirements:

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - c. All new construction or substantial improvements shall be construed as constructed by methods and practices that minimize flood damage.
 - d. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - e. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems' discharges from the systems into floodwaters.
 - f. On site waste disposal systems, where permitted, shall be located to avoid impairment to them or contamination from them during flooding.
8. Any existing structure or use which is located within the floodplain and which does not conform to the requirements herein shall be nonconforming and subject to the requirements of Section 9.12 of this Ordinance, providing, however, any existing permitted use and structure may be modified, altered, or repaired to incorporate flood proofing measures, where such measures do not raise the level of the 100 year flood.
9. All land designated "Flood Protection Control Area" on the Official Zoning Map, but determined to be above the elevation of the 100 year flood level may be used for any purpose for which it is zoned without further flood protection controls.
10. A survey of the site in question will be required prior to the issuance of any zoning and/or building permit or construction activity that would alter the site in any manner, to establish the existing elevation of the land.
11. After completion of the 1st floor elevation, as provided in Subsection (4) of this section, a certified copy of said lowest elevation shall be provided to and maintained in the offices of the Zoning Administrator Building Official.
12. A site plan, as regulated by Section 9.19 of this Ordinance, shall be required for any land below the elevation of the 100 year flood level.

TABLE 2**OHIO RIVER**

Distance River Mile (1)	Station of Point (2)	Elevation 100 Year Flood	Width of Floodway (3)
470.0	A	498.5	1,500
469.5	B	498.5	1,400

LICKING RIVER

.10	A	498.3	202
.25	B	498.6	233
.50	C	498.6	147
.75	D	499.1	118
1.00	E	499.7	209

- (1) As measured from the confluence of the Ohio River and the Monogahela River (Pittsburgh).
- (2) Coincides with river cross sections identified on the zoning map.
- (3) As measured in feet from the Newport Corporation Limits.
- (4) As measured from the confluence of the Ohio River and the Licking River.

TABLE 3**WOODLAWN CREEK**

Distance River Mile (1)	Station Point (2)	Elevation of 100 Year Flood	Width of Floodway
.09	A	498.6	200 (3)
.36	B	498.6	480 (3)
.55	C	501.4	460 (3)
.70	D	501.4	550/30 (4)
.81	E	515.4	350 (3)
.95	F	516.7	280 (5)
1.12	G	516.8	40 (3)
1.38	H	518.8	100 (5)

WOODLAWN TRIBUTARY 2

.70	A	516.9	350
2.10	B	517.0	300
3.50	C	517.3	360

- (1) Miles above confluence with Ohio River.
- (2) Coincides with river cross sections identified on the zoning map.
- (3) As measured in feet from the Newport Corporation Limits.
- (4) Width of the left portion of the channel (looking upstream) within corporate limits/width of the right portion of the channel (looking upstream) within corporate limits.
- (5) Total width in feet.

SECTION 9.22 REGULATIONS CONCERNING DESIGN AND CONSTRUCTION OF IMPROVEMENTS:

Any proposed development requiring the construction of streets (including curb and gutters), sidewalks, sewers (sanitary and storm), water lines or other improvements, as herein defined, shall be required to be designed and reconstructed in accordance with the applicable articles and sections of the Newport Subdivision Regulations, as amended.

SECTION 9.23 CREATION OF A DESIGN REVIEW BOARD

- A. Establishment of a Design Review Board to oversee design of the following structures and areas.
 - 1. Buildings within Redevelopment areas.
 - 2. New buildings over 4,000 square feet in commercial zones.
 - 3. Residential buildings in developments of 10 or more units.
- B. The Board will review architectural guidelines as they apply throughout the City. Recommendations will be made to the Planning Commission.

SECTION 9.24 PLANNED UNIT DEVELOPMENT REGULATIONS (PUD)

A. **PURPOSE:** The purposes of the Planned Unit Development (PUD) Regulations are to: promote flexibility in design and permit planned diversification to the relationships between location of and types of uses and structures; promote the advantages of modern large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; providing for more usable and suitably located recreation facilities, other public and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

B. **ZONES PERMITTING PLANNED UNIT DEVELOPMENT:** A Planned Unit Development may be permitted in any zone where it is listed as "Permitted Principal Use", provided all conditions or provisions as set forth in this section are met and a public hearing is held in accordance with requirements of KRS Chapter 424 on the preliminary development plan.

C. **GENERAL:** Areas of land to be developed under the provisions of this section of the Ordinance shall be controlled by the following general guidelines and requirements:

- 1. **Permitted Uses:** All uses within a PUD are determined by the provisions of this Section and the approved plan of the project concerned.
 - a. **Residential Uses:** Residential Uses may be of a variety of types including single family, two-family and multi family dwelling units. In developing a balanced community, the use of a variety of housing types including zero lot line, cluster, rowhouse and townhouses shall be deemed in keeping with this section.
 - b. **Commercial, Service, Other Non Residential Uses:** Commercial, industrial and other non residential uses may be included in a PUD subject to approval by the Planning and Zoning Commission. Such uses, their locations, and commercial area designs shall be compatible with the residential uses. This section encourages a mixture of residential support uses to improve economic development of the PUD, specifically, and to the community, in general. Commercial, business, or industrial uses shall be reviewed by the Planning Commission to determine the following:
 - (1) That the uses permitted are necessary or desirable and are appropriate with respect to the purpose of this PUD Section.
 - (2) That the uses are not of such nature or so located as to exercise a detrimental influence on the PUD nor on the surrounding neighborhood.
 - (3) That the areas and uses are planned as an integral part of the PUD.
 - (4) That the uses are located and so designed as to provide direct access to a collector or an arterial street without creating traffic congestion or hazard.
- 2. **Minimum Area Requirements:** The minimum area required for a PUD shall be a gross land area of five (5) acres if used for residential zone purposes. Provided, however, no commercial uses shall be permitted in a PUD containing a gross land area less than ten (10) acres. Further provided, however, that no manufacturing uses shall be permitted in a PUD containing a gross land area of less than twenty (20) acres.
- 3. **Setback Requirements:** The location of all structures shall be as shown on the final approved plat. Minimum lot size, front, rear, and side yard lines, and lot width shall be established by the Planning and Zoning Commission at the time of Concept Approval, consistent with the intent of this Chapter and sound planning practices. Planning and Zoning Commission may be guided by standards set elsewhere in this ordinance for comparable conditions and by common good practice. The relationship of buildings to each other, to the local street system, and to open space land shall be consistent with the intent of this Section
- 4. **Intensity of Land Use:** Because land is used more efficiently in a PUD, improved environmental quality can often be produced with a greater number of dwelling units per gross acre than usually permitted in a traditionally zoned district. The Planning and Zoning Commission shall determine in each case the appropriate land use and dwelling unit density for individual projects or sections thereof. However, the following guidelines shall be adhered to: followed unless special circumstances render an exception:
 - a. **Residential Densities:** Residential Densities are to be governed by the approved underlying zones.
 - b. **Land Use Ratios:**
 - (1) Land Use ratios are to be determined based on the underlying zones and approved preliminary development plan.
- 5. **Common Property:** Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants. When common property exists, the ownership of such common property may be either public or private. When common property exists, satisfactory arrangements shall be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service and parking areas, and recreational and open spaces. The landowner shall provide for and establish an organization for the ownership and maintenance of any private common open space, and such organization shall not be dissolved nor shall it dispose of any common open space.
- 6. **Conflict of Restrictions:** Wherever there is a conflict or difference between the provisions of this section and those of the other sections of this ordinance, the provisions of this section shall prevail. Subjects not covered by this section shall be governed by the respective provisions found elsewhere in this ordinance unless otherwise approved by the plan commission.

7. Utilities: All utilities, including communication and electrical systems, shall be placed underground within the limits of a PUD. Appurtenances to these systems may be accepted.

8. Streets: The design and designation of all streets, public or private, shall be subject to the approval of the Planning Commission where necessary. Because of the nature of a PUD and the intent of this section, the overall shape and dimension of the street right of way shall be at the discretion of the Planning and Zoning Commission.

9. Home Owners Association: There shall be an established Home Owners Association and its by laws and other similar deed restrictions which provide for the control and maintenance of all common areas, recreation facilities, or open spaces shall meet with the approval of the Planning Commission. If any open space or recreational facility is to be used solely by the residents of the PUD, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.

10. Commercial Design: The plan of the project shall provide for the integrated and harmonious design of buildings in commercial and industrial areas and such parcels shall be developed in park-like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas, and other features from the adjoining and surrounding residential areas.

11. Design guidelines shall be submitted and approved by Planning and Zoning along with the preliminary development plan

D. APPLICATION AND APPROVAL PROCEDURES. Whenever a PUD is proposed, before a permit for the erection of a permanent building in such PUD shall be granted, and before a subdivision plat of any part thereof may be filed in the office of the Planning and Zoning Commission, the developer or his authorized agent shall apply and secure approval of such PUD in accordance with this Section. Review of the project shall take place in three (3) phases. At the culmination of each phase, the applicant must receive the necessary approvals from the City of Newport Planning and Zoning Commission prior to proceeding with subsequent review phases. Lack of sufficient or continuous progress as defined herein, either through or between phases, may lead to nullification of all approvals by the City of Newport Planning and Zoning Commission. Approval of any one phase does not guarantee approval of any subsequent phases.

1. PHASE I CONCEPT APPROVAL:

a. Concept Plan - in order to allow the Planning Commission and the developer to reach an understanding on basic design requirements prior to detailed design, the applicant shall submit:

- (1) A legal description of the metes and bounds of the parcel.
- (2) An area map and/or aerial photograph showing adjacent property and existing uses within three hundred (300) feet of the proposed PUD parcel.
- (3) A sketch plan approximately to scale, though it need not be to the precision of a finished engineering drawing; and it should show the following:
 - a) The existing topographical features of the site;
 - b) General map of the watershed in which the project is to be located;
 - c) Location of the various uses and their areas in acres;
 - d) The general outlines of the interior roadway system and all existing right of way and easements whether public or private;
 - e) Delineation of the various residential and non residential areas, indicating for each area, its general extent, size, and composition in terms of total number of dwelling units and approximate percentage allocation by dwelling unit type;
 - f) Calculation of the residential density in dwelling units per gross acre including interior roadways;
 - g) The interior open space system;
 - h) Where portions of the site are subject to flooding, the map shall indicate extent and frequency;
 - i) Principal ties to the community at large with respect to transportation, water supply, and sewage disposal;
 - j) General description of the availability of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and how these facilities are affected by these proposals;
 - k) Evidence that the proposed PUD is compatible with the goals of the City's Official Comprehensive Plan;
 - l) General statement as to how common open space is to be owned and maintained;
 - m) If the development is to be phased, a general indication of how the phasing is to proceed. Whether or not the development is to be phased, the sketch plan shall show the intended total project.

b. The Planning and Zoning Commission shall review the concept plan and its related documents at a public hearing and shall render a written report to the applicant within fifteen (15) days of the public hearing. The Planning Commission may call upon other public or private entities to provide a sound review of the proposal. The Planning and Zoning Commission may require preliminary approval from other City or state agencies. The Commission need only concern themselves with general conceptual merit, and in no way shall commit any future acceptance or rejection of detailed design elements required in subsequent phases of plan review. The written report shall include the following:

- (1) Whether the proposal meets the intent and objectives of this PUD Section;
- (2) Whether the proposal is conceptually sound in that it conforms to accepted design principals in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the developed elements;
- (3) Whether there are adequate services and utilities available or proposed to be made available in the construction of the project.

c. If The Planning and Zoning Commission grants approval or approval with conditions of the proposed PUD conceptual plan, then the applicant may proceed to Phase II.

E. PHASE II PRELIMINARY PLAT PETITION:

1. Application Filing and Public Notification - after having received approval of the proposed PUD conceptual plan, the applicant may then proceed to Phase II of the approval process. Application for preliminary plat approval shall be submitted to the City of Newport Planning and Zoning Commission. The proposed preliminary plat and any supportive documents shall be filed with Planning and Zoning Commission Office at least fifteen (15) days in advance of the public hearing at which the proposed plat is to be reviewed. The applicant shall meet all Planning and Zoning Commission public hearing requirements as set out in KRS Chapter 424.

2. Contents of Preliminary Plat - the preliminary plat shall be filed in three (3) copies at a scale not greater than 1"=100' and include the following:

- a. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within three hundred (300) feet of the applicant's property.
- b. A topographic map of the entire area showing contour intervals of not more than five (5) feet of elevation shall be provided. Where existing ground is on a slope of less than two percent (2%), the plan shall show either one (1) foot contours or spot elevations where necessary, but not more than fifty (50) feet apart in all directions.
- c. A preliminary site plan including the following information:
 - (1) Title of drawing, name of project, name and address of applicant.
 - (2) The land use plan identifying existing and proposed uses and building by type, location, quantity, design, floor area, and density of specific sections and the project in total.
 - (3) North point, scale and date.
 - (4) Existing and proposed watercourses.
 - (5) Street layout and design.
 - (6) The open space plan and planned sites for schools, recreation areas, community centers, and other public improvements where applicable.
 - (7) Location of all existing or proposed site and off site improvements, including drains, ditches, culverts, retaining walls, and fences; descriptions and location of method of sewage disposal and water supply; location and size of all signs (street name and traffic control); location and design of street and parking lighting; and the amount of building area proposed for non residential uses, if any.
 - (8) A plan for phasing the construction of the project, showing the geographical coverage of future plats, their approximate sequence of development, and the tentative timetable for development. It is the intent of this Section that the tempo and sequence of development in a PUD be such that land uses which provide only moderate local revenues, yet require large municipal and school service costs, are scheduled simultaneously with those that provide larger local revenues yet which are not as costly to service.

d. The Planning and Zoning Commission may require, if all or part of the gross land area of the PUD has moderate to high susceptibility to flooding, a transparent overlay showing all soils, areas, and their classifications; as well as those areas susceptible to flooding, or moderately or highly susceptible to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and tree coverage.

3. Factors for Consideration - The Planning and Zoning Commission's review of a preliminary site plan shall include, but shall not be limited to, the following considerations:

- a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, signs, and traffic controls.
- b. Adequacy and arrangement of pedestrian traffic access and circulation; separation of pedestrian from vehicular traffic; and pedestrian convenience.
- c. Location, arrangement, appearance, and sufficiency of off street parking and loading.
- d. Location, size, and placement of buildings, lighting and signs.
- e. Type and arrangement of landscape features.
- f. Adequacy, location, and size of storm water and sanitary waste disposal facilities.
- g. Adequacy of structures or roadways in areas with moderate to high susceptibility to flooding, ponding, or erosion.
- h. Conformance with other specific requirements of the Planning and Zoning Commission, which may have been stated in the PUD conceptual plan approval.
- i. In its review, the Planning and Zoning Commission may consult with the City engineer, other departments or officials, as well as with the representatives of Federal and State agencies such as the Soil Conservation Services, or Department of Natural Resources. The Planning and Zoning Commission may also require such additional provisions and conditions that appear necessary for the public health, safety, and general welfare.
- j. That property adjacent to the proposed development will not be adversely affected.

4. Action on Preliminary Plat Plan - within thirty (30) days of the public hearing at which the preliminary plat is submitted for approval, the Planning and Zoning Commission shall act on it. If no decision is made within said thirty (30) day period, the preliminary plat plan shall be considered conditionally approved. The Planning and Zoning Commission's actions shall be in the form of a written statement to the applicant stating whether or not the preliminary plat plan is conditionally approved. A copy of the appropriate minutes of the Planning and Zoning Commission shall be sufficient report.

5. The Planning and Zoning Commission's statement may include recommendations as to desirable revisions to be incorporated into the final plat plan, of which conformance with shall be considered a condition of approval. However, such recommendations shall be limited to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the conceptual plan proceedings. If the preliminary plat plan is disapproved, the Planning and Zoning Commission's statement shall contain the reasons for such findings. In such a case the Planning and Zoning Commission may recommend further study of the plat plan and re submission of the preliminary plat plan to the Planning and Zoning Commission after it has been revised.

F. PHASE III FINAL DEVELOPMENT PLAN AND FINAL PLAT REQUIREMENTS:

1. Application for Final Development Plan Approval - after receiving the conditional approval from the Planning and Zoning Commission on a preliminary plan and approval for all necessary permits and curb cuts from City and/or state officials, the applicant may prepare his final Development Plan and submit it to the Planning and Zoning Commission for final approval. The Final Development Plan shall conform substantially to the preliminary plat plan that has received conditional approval. It should incorporate any revisions or other features that may have been recommended by the Planning and Zoning Commission during concept plan and preliminary plat plan review procedures.

2. Final Platting Procedures - the elements of the final plat shall consist of:

- a. Plat or plats of the subject property drawn to a scale of not greater than one (1) inch equals one hundred (100) feet, suitable for recording and which will be recorded in the office of the County Clerk, after final approval by the Planning and Zoning Commission. The plat or plats shall conform to the applicable requirements of the subdivision regulations, unless specifically waived by the Planning and Zoning Commission, and in addition to the following:

- (1) All areas reserved for common ownership with an indication of the properties the owners will share in common.
 - (2) Such lot or parcel lines indicating tracts, which are, now in separate ownership or which may be transferred to other ownership during or after development. (Resubdivision of large lots containing several buildings may be accomplished at a later date upon application and approval);
 - (3) Indication of areas to be developed for residential (by type of housing unit), commercial, public and semi public uses.
- b. In addition to and along with the final plat, the applicant shall also submit a final development plan, at a scale of not greater than one (1) inch equals one hundred (100) feet, which shall set forth, identify, and locate the following:
- (1) The proposed finished grade of the subject property shown by contours with intervals not larger than two (2) feet supplemented where necessary, by spot elevations;
 - (2) All walks, malls, and other open areas, including recreational areas, swimming pools, golf courses, tennis courts, playgrounds, etc.
 - (3) The location and type of all walls, fences, screen plantings, and landscaping;
 - (4) The location, size, height, and orientation of all signs;
 - (5) The types of surfacing proposed on the various off street parking, and driveways including cross sections and drainage plans;
 - (6) Location and cross section drawings of all proposed streets, highways, alleys, and walkways, indicating the proposed surfacing and drainage plans;
 - (7) A plan showing all existing and proposed utilities, indicating, where applicable, pipe sizes, types, and grades;
 - (8) A drainage plan of the natural and storm sewer system of the area showing size and location of each existing and proposed structure, the approximate volume of runoff water generated by development of the subject area and the proposed method of disposing of said water. Provisions shall be included for adequate control of erosion, hillside slippage, and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
 - (9) Plans and drawings required above may be combined in any suitable and convenient manner so long as the data required is clearly indicated on one or more of said plans. A separate plan or drawing for each element is not necessary, but may be provided at the option of the applicant.
 - (10) A final schedule of development staging and phasing as set forth elsewhere in this Ordinance.
 - (11) Sketches of the exteriors of several representative buildings in the project. It is intended that neither uniformity of architectural style nor unnecessary diversity thereof be a prerequisite to approval, but the developer is encouraged to exercise ingenuity in achieving a harmonious entity without undue attention to consistency. The purpose of this subsection is to permit development flexibility greater than that permitted by other sections of this Ordinance.

c. The Final Development Plan - after approval by the Planning and Zoning Commission, shall be delivered to the Zoning Administrator, who shall grant permits only in accordance with the approved development plan and other plans as required by this Ordinance.

G. SUPPLEMENTAL REGULATIONS:

1. Proceedings - all proceedings brought under this section shall be subject to the rules of procedure of the Planning and Zoning Commission, where not inconsistent with the procedure otherwise stated herein, except that notice by publication shall be sufficient notice for proceedings related solely to approval and modification of preliminary plat plans and final plat plan.
2. Modification - in the exercise of its continuing jurisdiction, the Planning and Zoning Commission may, from time to time, modify the approved final plat plan in a manner consistent with the approved preliminary plat plan to allow for changed circumstances and conditions unforeseen at the time of the original approval.
3. Request for Changes - if in the development of the site, it becomes apparent that certain elements of the plan are not feasible and in need of significant modification, the applicant shall then present his solution to the Planning and Zoning Commission. The Planning and Zoning Commission shall then determine whether or not the modified plan is still in keeping with the intent of the Comprehensive Plan and zoning district with respect to the specific property. If a negative decision is reached, the site plan shall be considered as disapproved. The applicant may then produce another site plan solution. If an affirmative decision is reached, the Planning and Zoning Commission shall so notify the Zoning Administrator, stating all of the particulars of the matter and authorizing the modifications as approved.
4. Expiration of Approval - approval by the Planning and Zoning Commission shall expire after a period of five (5) years from the approval of the PUD's Development Plan unless the development is fifty one percent (51%) completed in terms of public improvements such as power, gas, water, and sanitary sewers, in which latter instance an extension of time may be granted by the Planning and Zoning Commission not to exceed five (5) successive periods of two (2) years each.
5. Recording- all approved final plat plans and modifications thereof shall be recorded in the appropriate plat books in the office of the County Clerk after approval by the Planning and Zoning Commission.

SECTION 9.25 HILLSIDE DEVELOPMENT CONTROLS

- A. This section is designed to ensure when development is proposed in those areas of the community which have physical characteristics limiting development (hillside slopes of twenty (20) percent or greater and/or certain soil and bedrock conditions) that said development shall occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and natural hazards.
- B. Areas of land on which development is physically restricted due to excessive hillside slopes shall be limited according to the following requirements, notwithstanding any other section of this or any other ordinance adopted by the City.
1. Review and approval by the City Engineer shall be required for:
 - a. All land areas identified in the Comprehensive Plan For Development, Newport, Kentucky, Environmental Constraints as having the following combination of soils and bedrock:
 - (1) Eden Soils on Slopes of twelve percent (12%) to thirty five percent (35%); and,
 - (2) Kope Formation Bedrock; and,
 - b. Any other areas, which have slopes of twenty percent (20%) or greater.

2. No excavation, removal or placement of any soil, foundation placement, or construction of buildings or structures of any nature within the area identified in (1) above, may occur until plans and specifications for such work have been submitted in the form of a development plan as regulated by Section 9.19 of this Ordinance. In addition to development plan requirements, the following shall also be submitted:

a. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion ponds, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area. The source of topographic information shall be indicated in the plan.

b. Subsurface investigation of the area under consideration, including test borings, laboratory tests, and engineering analysis shall be made by a qualified registered civil engineer, indicating that the building and physical changes proposed in the area will be completed in a manner which will minimize hillside slippage or soil erosion.

3. The Development Plan, cut and fill permit, and other information required in Section 9.24 B. 2 of this Section of the Ordinance shall be reviewed by the City Engineer who will recommend to the Planning and Zoning Commission, or its duly authorized representative, what effect the proposed development will have on hillside slippage and soil erosion. After consideration of the recommendations of the City Engineer, the Planning and Zoning Commission, or its duly authorized representative, may grant a permit for use of the site in accordance with the submitted plans.

4. If, after review of the plans required by this section of the Ordinance, the Planning and Zoning Commission, or its duly authorized representative, determines that said proposed plans will not minimize hillside slippage, the Planning and Zoning Commission shall deny a permit for the development of said land and the site shall be limited to those open type uses, excluding structures, as permitted or conditionally permitted in the Conservation Zone.

SECTION 9.26 REGULATIONS PERTAINING TO PARKING OR STORING OF SEMI-TRACTORS, TRACTORS, PANEL TRUCKS, BUSES, TRAILERS, MOTOR HOMES, CAMPERS, INOPERABLE VEHICLES, VEHICLES WITH THREE OR MORE AXLES, AND OTHER SIMILAR TYPES OF EQUIPMENT:

A. No vehicle, which is abandoned, nonfunctional, in a state of disrepair, or lacking in a valid license, shall be stored in excess of seventy-two (72) hours in any residential zone, unless it is in a completely enclosed building.

B. It shall be unlawful for any person(s) to live in any boat, automobile, camper, recreational vehicle, or truck, within the jurisdiction of the legislative body, except houseboats may be permitted along the Licking and Ohio Rivers.

C. The outside storage in excess of seventy-two (72) hours, of any trailer, recreational vehicle, mobile home, camper, boat, or similar type equipment shall be restricted to paved or stone surfaces in the rear yard of all lots within the jurisdiction of the legislative body, except as herein provided and in cases, where due to unique conditions, topographic or other, which do not allow use of the rear yard, the Board of Adjustment may permit such storage to be located in the side yard of the lot following review and approval by said Board. The Board may impose certain requirements (such as provided in Section 9.16 of this Ordinance) to insure that said vehicle and related equipment is properly screened from view of adjacent property. In no case shall more than one of the aforementioned vehicles or similar type equipment be permitted outside of an enclosed building on any lot or parcel of land.

D. The outside storage of any semi-tractor, tractor, panel truck, trailer, bus, motor home, camper, inoperable vehicle, vehicles with three or more axles, and/or other similar types of equipment, except as described above, shall be prohibited in all residential zones.

E. No storage of semis etc. on any front parking lot in any commercial zone.

F. Any storage of a vehicles due to special circumstances of topography, access etc. that can't be relocated in the rear may be granted by the Zoning Administrator.

SECTION 9.27 BUS SHELTER REGULATIONS:

Bus shelters shall be a permitted use in all zones, subject to the following requirements:

A. LOCATION: Bus shelters may be permitted only at bus stops designated by the Transit Authority of Northern Kentucky, subject to prior approval for each location by the Newport Board of Commissioners. Bus shelters may be permitted within a public right of way, subject to prior approval by the Newport City Engineer (for local streets) or by the Kentucky Department of Transportation (for state maintained right of ways). No portion of a bus shelter may extend within two (2) feet of the street pavement edge. Adequate pedestrian access shall be maintained through the bus shelter site.

B. SIZE RESTRICTIONS/CONSTRUCTION MATERIALS: Bus shelters shall conform to size specifications and shall be constructed with materials that have been approved by the Newport Board of Commissioners.

C. ADVERTISING SIGNS: No signage shall be allowed on any bus shelter.

D. REVIEW PROCEDURES: No bus shelters shall be constructed without an approved zoning and building permit. A development plan shall be required for a zoning permit for each bus shelter proposal and shall include the following information:

1. Total area in development project;
2. Identification of adjacent pavement width and right of way;
3. Identification of above ground and underground utilities;
4. Identification of all proposed utility connections;
5. Identification of all easements to be continued, created, relocated or abandoned;
6. Dimensions and location of proposed bus shelter;
7. Identification of any existing traffic signs or any obstructions to sight clearance within fifteen (15) feet of the proposed bus shelter.

SECTION 9.28 CITY CENTER OVERLAY DISTRICT (CCO)

Purpose

This district is designed to assist in the implementation of the Newport City Center Study. The purpose of this overlay district, along with the underlying zoning districts and articles of the City of Newport Zoning Regulations is to:

1. Provide a framework to guide appropriate development for future growth in the center of the City of Newport;
2. To further detail and compliment the Newport Comprehensive Plan for this area due to the vital nature of the area;
3. To evaluate potential development in terms of land use, density, traffic, parking impact and infrastructure in order to minimize negative impacts;
4. To provide development design review, streetscaping and special signage regulations that provide appropriate exterior appearance to the general public while exhibiting excellence in design.

Location & Definition

The City Center Study Overlay District (CCO) is an overlay zoning district illustrated on the City of Newport Zoning Map to which it is applied; the rights and obligations herein as set forth and in addition to those specified in the Zoning Regulations, the underlying zoning district and those described in the City Center Study. The boundaries or location of the CCO are identified on page 5 of the City Center Study and shall be designated as the suffix CCO. The current zoning of the overlay district shall also be identified on the Newport Zoning Map.

Applicability & Review

The City Center Study Overlay District (CCO) application and review requirements shall be applied to all properties within the area identified on page 5 of the City Center Study and other applicable articles of this zoning order. Specific land uses, building densities and zoning of parcels in the study area are identified in the "Concept Development Plan" and "Implementation" sections of the City Center Study. Application and review procedural requirements are specified in the City Center Study in addition to other appropriate articles in this zoning order.

Public Hearing

As part of the formal review of the Concept Development Plan, a Public Hearing shall be required. All notification and procedural requirements for the Newport Planning Commission to take action on approval or disapproval of each Concept Development shall be made in accordance with Article 17 and 18 of the zoning order.

SECTION 9.29 TREES

DEFINITIONS:

TREE CONSERVATION AND RESTORATION REQUIREMENTS:

(a). The following requirements shall apply for all development and/or subdivision plans submitted for new development in any zone:

1. A tree inventory plan shall be submitted and reviewed in conjunction with all development and/or subdivision plans and before any clearing and/or grading takes place on the property. The tree inventory plan must be prepared by an arborist or other qualified tree specialist, and the protective tree barriers must be in place before any clearing and/or grading takes place on the property. The Tree Inventory Plan shall include all trees with a diameter of six (6) inches or more as measured 12" above the ground for the entire site and locate all such trees within the buildable area and within twenty (20) feet of the perimeter of the buildable area. The tree inventory plan shall also identify any landmark tree(s) and delineate the buildable area of a proposed development. The Planning Commission may permit the removal of a tree outside the buildable area, with the advice of the Tree Board, pursuant to the requirements contained elsewhere in this section, provided tree removal of the tree is reasonably required to develop the parcel in compliance with this ordinance.
2. All trees to be saved outside of the buildable area of a development shall be conspicuously designated with suitable protective tree barriers as designated herein or as otherwise approved by the Zoning Administrator. Approved tree protective barriers shall be installed along the outermost dripline around the tree protection zone. The use of tree protection zones is encouraged rather than the protection of individual (non-specimen) trees that may be scattered throughout a development site. The layout of development improvements, utilities, access drives, grading, etc., of a site shall accommodate the required tree protective zones. The public improvements shall be placed between tree protective zones unless the placement of same causes undue hardship on the developer as determined by the Planning Commission. If the Planning Commission determines that public improvements and/or utilities may be placed within a tree protective zone, the installation of same shall occur by way of tunneling rather than trenching or other method as approved by The Planning and Zoning Commission (see figures One and Two).

Construction site activities including, but not limited to material storage, parking, or concrete washout shall not encroach into any tree protection zone without the prior approval of the Zoning Administrator. Any tree irreparably damaged or destroyed within a tree protection zone as a result of construction activity shall be removed and replaced by the owner and/or developer at a ratio of two (2) trees for every tree irreparably damaged or destroyed.

Protective tree barriers shall be installed to a minimum height of four (4) feet above ground level around the outermost drip line of the tree protection zone. Tree protection zones shall be delineated with typical temporary construction fencing or continuous rope or flagging. In either case, the tree protection barrier shall be accompanied by "Tree Save Area" signage to be placed around the tree zone not more than every twenty (20) feet.

The tree-planting plan shall indicate the total number and species of trees to be planted within a proposed development along with the intended location of same. Trees required to be planted by this ordinance should be planted predominately in the developed areas, driveway aisles, and/or parking areas of the project. In no case shall more than fifty percent (50%) of the trees required to be planted be utilized to satisfy the screening requirements of a development. The exact location of the trees to be planted and the species shall be approved by the Planning Commission, after review of all Tree Board recommendations, as part of the Stage I review process. Whenever the owner/developer can demonstrate to the Planning Commission that the site spatial constraints result in an absolute inability to plant the required number of trees. As many trees as possible shall be planted on the site. Additional landscaping may be substituted for mandatory tree planting at the discretion of the Planning and Zoning Commission. The difference of those trees required to be planted, and those trees planted shall be donated to the City for use elsewhere in the City on public property. A reduction credit of one (1) tree or more shall be granted to an owner/developer when either of the following conditions exist:

- (a) For every tree saved within the buildable area of a development, eight (8) inches or more in diameter, or
- (b) For every two (2) trees saved within the buildable area of a development six (6) to eight (8) inches in diameter.
3. A landmark tree may not be removed without prior approval of the Planning and Zoning commission. If a landmark tree is irreparably damaged or must be removed, it must be replaced with three (3) trees of 4" caliper with location and species as determined by the Planning and Zoning Commission.
- c). The following criteria shall apply for tree replacement for each zoning district as outlined below:

1. The following requirements shall apply for all tree planting plans in conjunction with all development plans submitted for a development in a R-2, R-3, R-4, and R-5 Zone.

One (2) trees shall be planted on the development site for every one (1) unit approved. Any tree planted relative to the requirements contained herein shall not be less than two (2) inches in diameter as measured 12" above the ground when planted.

2. The following requirements shall apply for all tree planting plans in conjunction with development plans submitted for a development in a RFD Zone, CBDF Zone, CBD Zone, SC Zone NC Zone, P0 Zone, 1-1 Zone and 1-2 Zone. One (1) tree shall be planted on the development site for every five (5) required parking spaces. Any tree planted relative to the requirements contained herein shall be not less than three (3) inches in diameter as measured 12 inches above the ground when planted.

3. The following requirements shall apply for all tree-planting plans in conjunction with new subdivision plans with multiple lots submitted for a subdivision in R-1 Zone, and CO Zone. Two (2) trees shall be planted on each lot for every five thousand (5,000) square feet of lot area or fraction thereof. The tree(s) required to be planted on each lot may be planted on the lot or on the public right-of-way in front of each lot. Any tree planted relative to the requirements contained herein shall not be less than two (2) inches in diameter as measured 12 inches above the ground when planted.

5. PENALTIES:

Any person, firm, organization who violates any of the provision of this ordinance shall be guilty, upon conviction of a Class B Misdemeanor In accordance with the Kentucky Revised Statutes. Each day of continuous violation with any of the provisions contained herein shall be considered a separate offense and shall be punishable accordingly. Furthermore, any repeated violation of any provision of Section 9.28 of this Ordinance by any person, firm, organization or corporation shall be grounds for the revocation or suspension by the Building Inspector of any permit for the grading, construction, remodeling or demolitions of any site, building or structure on a site so involved. Upon the revocation or suspension, the person, firm, organization or corporation shall not be granted any new permit for the site in question for a period of one (1) year from the date of said revocation or suspension.

SECTION 9.30 CELLULAR ANTENNA TOWER REGULATIONS

PURPOSE. The purposes of these regulations are: to provide for the safest and most efficient integration of cellular antenna towers for cellular telecommunications services or personal communications services within the community; to provide for such facilities in coordination with the recommendations of the comprehensive plan; and to allow for such facilities with the intention of furthering the public health, safety, and general welfare.

20-2 PRE-APPLICATION CONFERENCE. Applicants are encouraged to notify the planning commission to discuss proposals, to allow for early coordination, and to identify those items that are in conformance/nonconformance with the comprehensive plan, zoning ordinance, and the provisions of these regulations.

20-3 DEFINITIONS. For the purposes of these regulations, the following definitions shall apply:

"Alternative Cellular Antenna Tower" means manmade trees, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that accommodate, camouflage, minimize or conceal the presence of cellular antennas or cellular antenna towers and that are constructed primarily for the purpose of accommodating cellular antennas or cellular antenna towers or are reconstructed for the purpose of accommodating cellular antennas or cellular antenna towers. This does not include existing structures erected for another primary purpose, but which subsequently have cellular antennas attached to or located within them, without any reconstruction of the original structure. For the provisions of these regulations, an alternative cellular antenna tower is considered a cellular antenna tower.

"Antennas or Related Equipment" means transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.

"Cellular Antenna Tower" means a tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services.

"Cellular Telecommunications Service" means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

"Co-location" means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower.

"Guyed Cellular Antenna Tower" means a type of wireless transmission tower that is supported by thin guy wires.

"Lattice Cellular Antenna Tower" means a self-supporting tower with multiple legs and cross bracing of structural steel.

"Monopole Cellular Antenna Tower" means a slender self-supporting tower on which wireless antenna can be placed.

"Personal Communication Service" has the meaning as defined in 47 U.S.C. sec. 332 (c).

"Planning Commission" means the Newport Planning and Zoning Commission

"Uniform Application" means an application to construct a cellular antenna tower submitted to a planning commission in conformity with KRS 100.985 through KRS 100.987.

"Utility" has the meaning as defined in KRS 278.010(3).

20-4 GENERAL. Cellular antenna towers for cellular telecommunications services or personal communications services may be allowed in any zone after a planning commission review in accordance with the following procedures to ascertain agreement with the adopted comprehensive plan and the regulations contained within the zoning ordinance.

20-4(a) Applicability. Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a cellular antenna tower shall submit a completed uniform application to the planning commission. Where the planning commission finds that circumstances or conditions relating to the application of an alternative cellular antenna tower are such that one or more of the requirements of the uniform application listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the planning commission, or its duly authorized representative, may modify or waive such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The planning commission shall not regulate the placement of antennas or related equipment on an existing structure.

20-4(b) Application Requirements. Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall include the following:

- (1) The full name and address of the applicant.
- (2) The applicant's articles of incorporation, if applicable.
- (3) A geo-technical investigation report signed and sealed by a professional engineer registered in Kentucky that includes boring logs and foundation design recommendations.
- (4) A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas.
- (5) Location within the City of Newport of the proposed site, including street names.
- (6) The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.
- (7) The identity and qualifications of each person directly responsible for the design and construction of the proposed tower.
- (8) A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system.
- (9) A vertical profile sketch of the tower signed and sealed by a professional engineer registered in Kentucky indicating the height of the tower and the placement of all antennas.
- (10) The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky.
- (11) A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower.
- (12) A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:
 - (a) Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction.
 - (b) Given the telephone number and address of the local planning commission; and
 - (c) Informed of his or her right to participate in the planning commission's proceedings on the application.
- (13) A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners.
- (14) A statement that the City Manager of the affected local government and the legislative body (i.e., City Manager, Board of Commissioners of the City of Newport, County Judge-Executive, Campbell County Fiscal Court, Mayor of Newport, Newport City Commission) have been notified, in writing, of the proposed construction.
- (15) A copy of the notice sent to the chief executive officer of the affected local government and the legislative body (i.e., City Manager, Board of Commissioners of the City of Newport; County Judge-Executive, Campbell County Fiscal Court; Mayor of Newport, Newport City Commission).
- (16) A statement that the Greater Cincinnati/Northern Kentucky Regional Airport has been notified, in writing, of the proposed construction and a copy of the notification.
- (17) A statement that:
 - (a) A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposed to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted in a visible location on the proposed site; and
 - (b) A written notice, at least two (2) feet by four (4) feet in size, stating that [Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site.
- (18) A statement that notice of the location of the proposed construction has been published in the Campbell County Recorder of Campbell County, Kentucky.
- (19) A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved.
- (20) A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that he applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities.
- (21) A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.
- (22) A grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:
 - (a) All of the planning unit's jurisdiction (Campbell County, Kentucky); and
 - (b) A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers.

20-4(c) Confidentiality of Application. All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official

misconduct in the second degree as provided under KRS.522.030. The confidentiality of the applications and any updates of the application can be waived by the written authorization of the applicant.

20-4 (d) Application Fee. An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee in the amount set by the planning commission upon submission of a uniform application.

20-4(e) Processing of Application. Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:

- (1) At least one (1) public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, in the Campbell County Recorder of Campbell County, Kentucky, provided that one (1) publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.
- (2) Notice of the proposal shall be posted on the site at least fourteen (14) days in advance of the hearing. The notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission. Notice of the proposal shall also be posted on the public road nearest the site. This notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission.
- (3) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by certified mail, return receipt requested, to the owner of every parcel of property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed. The notice shall include a map of the location of the proposed construction, the telephone number and address of the planning commission and shall inform the addressee of his right to participate in the planning commission's proceedings on the application. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson if the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.
- (4) Upon holding the hearing, the planning commission shall, within sixty (60) days commencing from the date that the application is received by the planning commission, or within a date specified in a written agreement between the planning commission and the applicant, make its final decision to approve or disapprove the uniform application. If the planning commission fails to issue a final decision within sixty (60) days, and if there is no written agreement between the planning commission and the utility to a specific date for the planning commission to issue a decision, it shall be presumed that the planning commission has approved the utility's uniform application.

20-5 DESIGN STANDARDS. The applicant shall provide information demonstrating compliance with the requirements contained herein. Potential sites that should be considered (in order from most-preferred to least-preferred) include street right-of-way, existing utility towers, industrial zones, commercial zones, and government buildings. Where the planning commission finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection or surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the planning commission, or its duly authorized representative, may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

20-5(a) Monopole Cellular Antenna Towers shall be permitted in any zone. Lattice and guyed cellular antenna towers shall be permitted in any zone except for residential zones.

20-5(b) Lattice and Guyed Cellular Antenna Towers constructed in an agricultural zone shall be located a minimum distance of not less than 250 feet from all existing residential structures. Distance shall be measured from the base of the tower to the nearest wall of the residential structure.

20-5(c) Setbacks for all structures constructed in connection with guyed or lattice cellular antenna towers, except fences and/or guy wires, shall be a minimum distance from the property line or lease line equal to at least one-half (1/2) the height of the tower, but not less than fifty (50) feet. All structures constructed in connection with monopole or alternative cellular antenna tower shall comply with the applicable setback requirements established for other structures within the applicable zoning district. Alternative cellular antenna towers that are to be located as part of a utility service facility (e.g. power pole or telephone pole) shall comply with setback requirements applicable to such utility service facilities, if any.

20-5(d) Height. A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of two hundred (200) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than fifteen (15) feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point. The planning commission may allow antennas greater than two hundred (200) feet in height upon review of the applicant's justification that the additional height meets the criteria identified in Subsection 20-6.

20-5(e) The Cellular Antenna Tower shall be Constructed in compliance with the current ANSI/EIA/TIA 222-7 standards and other applicable state standards.

20-5(f) Illumination. Cellular antenna towers shall not be illuminated except in accordance with other state or federal regulations.

20-5(g) The Site shall be Unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall be only from approved access points.

20-5(h) Woven Wire or Chain Link (eighty (80) percent open) or solid fences made from wood or other materials (less than fifty (50) percent open) shall be used to enclose the site. Such fences shall not be more than eight (8) feet in height, and may be located within the front, side, or rear yard. The use of barbed wire or sharp pointed fences shall be prohibited in or along any boundary adjoining residential or MHP zones.

20-5(i) Screening shall be provided by evergreen trees, with a minimum height of six (6) feet, planted in a staggered pattern at a maximum distance of fifteen (15) feet on center. The screening shall be placed in an area between the property line, or lease line, and a ten (10) foot setback.

20-5(j) Surfacing of All Driveways and Off-street Parking Areas shall comply with the requirements of the applicable local zoning ordinance.

20-5(k) Signs. There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs that are required by a federal, state, or local agency. Such signs shall not exceed five (5) square feet in area.

20-5(l) Number of Service Providers. All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three (3) service providers.

20-5(m) Lease Agreements. All option and site lease agreements shall not prohibit the possibility of co-location, and in the case of abandonment, shall include a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.

20-5(n) Approval of the Federal Aviation Administration (FAA) and the Kentucky Airport Zoning Commission (KAZC) or documentation where approval is not required shall be submitted prior to the issuance of a building permit for the construction of the cellular antenna tower.

20-6 CRITERIA

20-6(a) approval or Disapproval of the proposal shall be based upon an evaluation of the proposal's agreement with the comprehensive plan and zoning regulations.

(1) The planning commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. The planning commission may provide the location of existing cellular antenna towers on which the commission deems the applicant can successfully co-locate its transmitting and related equipment. If the planning commission requires the applicant to attempt co-location, the applicant shall provide the planning commission with a statement indicating that the applicant has:

(a) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or

(b) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities and that:

(1) Identifies the location of the towers or other structures on which the applicant attempted to co-locate; and

(2) Lists the reasons why the co-location was unsuccessful in each instance.

(2) The planning commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.

(3) The planning commission shall not regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that the proposed facility complies with the regulations of the Federal Communications Commission concerning radio frequency emissions.

20-7 AMENDMENTS. Any amendments to plans, except for minor adjustments as determined by the planning commission, or its duly authorized representative, shall be made in accordance with the procedure required by Subsection F, subject to the same limitations and requirements as those under which such plans were originally approved.

SECTION 9.31 URBAN RESIDENTIAL OVERLAY ZONE

SECTION I

1. Purpose:

It is the purpose of the Urban Residential Overlay Zone is to allow for flexibility in density when the result will be the development of new residential units with the following emphasis:

- A). Promotes single-family owner occupied residences;
- B). Promotes single-family residential development of lots that do not conform with the existing regulations;
- C). Encourages redevelopment of existing substandard housing; and
- D). Where the proposed overall development exceeds the existing minimum density requirements.

2. Designation:

The Urban Residential Overlay Zone shall be designated by the abbreviation (URO) on the City of Newport Zoning Map. All property so classified is subject to the provisions of the Section.

3. Applicability:

The URO shall operate as an overlay zone In the R-3 zoning district. All provisions of the underlying zoning shall apply, except as provided for in this Section.

4. Zoning Permit:

No Zoning Permit shall be issued for any new construction within an established URO without approval of a Development Plan under Section 9.13.

5. Procedures:

Owners and developers of property within an URO shall be subject to the following procedures and requirements to develop lots within the URO.

- A). The Applicant must establish the number of existing buildings and residential units within the project area.
- B). Applicant must demonstrate the existence of non-conforming lot sizes.
- C). Applicant must demonstrate the existence of substandard housing units within the project area.
- D). Multiply dwelling units (two, three and four family) must be on record with the City, or substantial evidence of the existence of use as multi-family must be presented by the applicant to the Zoning Administrator for approval.
- E). Any two, three, four, or multiple unit buildings to be removed and replaced with single-family structures within the development area are to be counted as two units when calculating the total number of allowable units.
- F). When new construction of 10 or more single family dwelling units occurs in the URO, the new number of total units to be built can exceed the densities established by the zone, up to but not exceeding the existing number of units when calculated as stipulated In (E). This exemption is only to be used when calculating existing established two-family units.
- G). A project utilizing an URO shall contain 10 or more new single-family residential units. Lots need not be contiguous, however all must be constructed in a timeframe outlined within Section 16.2 of this Zoning Ordinance.
- H). All development plans under the URO are subject to all other applicable sections of this Zoning Ordinance.

- I). All new residential construction within the URO must be single-family dwelling units.

SECTION 9.32 TRANSITION ZONE REGULATIONS (TZD)

A. **PURPOSE:** The purposes of the Transition Zone (TZD) regulations are to: promote flexibility in design and permit planned diversification to the relationships between location of and types of uses and structures; promote the advantages of modern, large-scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities and to utilize such features in a harmonious fashion; providing for more usable and suitably located recreation facilities, and other public and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

B. **ZONES PERMITTING TRANSITION ZONE DEVELOPMENT:** A transition zone development may be permitted in any zone where it is listed as "permitted principal use," provided, solely with respect to a new development and/or building or facility expansion, all conditions or provisions as set forth in this section are met and a public hearing is held in accordance with requirements of KRS Chapter 424 on the preliminary development plan.

C. **GENERAL:** Areas of land to be developed under the provisions of this section shall be controlled by the following general guidelines and requirements:

1. **PERMITTED USES:** All permitted uses within a TZD are determined by the provisions of this section and, with respect to new developments and/or expansion(s) of existing building(s) and facilities, the approved plan of the project concerned.

a. **Residential Uses:** Residential uses may be of a variety of types including single family, two-family and multi-family dwelling units.

b. **Commercial, Service, Light Manufacturing, including eco-green manufacturing, Other Non-Residential Uses:** Commercial, Service, Light Manufacturing, including eco green manufacturing, R&D and other non-residential uses are permitted in a TZD subject to, in the case of new developments and/or expansions of existing facilities, approval by the Planning and Zoning Commission. Such new development and/or expansion uses, their locations, and commercial area designs shall be compatible with the residential uses. This section encourages a mixture of residential support uses to improve economic development of the TZD, specifically, and to the community, in general. New development and/or expansion of Commercial, Service, business, R&D or Light Manufacturing including eco-green manufacturing uses shall be reviewed by the Planning Commission to determine the following:

- (1) That the uses are necessary or desirable and are appropriate with respect to the purposes of this TZD section.
- (2) That the uses are not of such nature or so located as to exercise a detrimental influence on the TZD nor on the surrounding neighborhood.
- (3) That the areas and uses are planned as an integral part of the TZD.
- (4) That the uses are located and so designed as to provide direct access to a collector or an arterial street without creating traffic congestion or hazard.

c. Corporate, regional, and administration offices.

d. Industrial engineering consultant offices.

e. Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private.

f. Professional, medical, and dental offices.

g. School for business training.

h. Studios for professional work or teaching any form of fine art photography, music, drama, dance or gymnastics.

i. Testing laboratories.

j. Light manufacturing, except for those that decompose or detonate, consisting of the manufacturing, processing, packaging, or assembling of the following materials:

(1) Animated and/or illuminated billboards and other commercial advertising structures, and sign making, where such activities are wholly contained within fully enclosed structures.

(2) Candy and confectionery products, food and beverage products, except the rendering or refining of fats and oils excluding poultry and animal slaughtering and dressing.

(3) Cigars and cigarettes.

(4) Cosmetics, pharmaceuticals, and toiletries.

(5) Electric appliances, television sets, phonographs, household appliances.

(6) Electrical machinery, equipment and supplies.

(7) Woodworking, including furniture and cabinet making.

(8) Instruments of professional, scientific, photographic, and optical use.

(9) Metal products and metal finishing, excluding the use of blast furnaces or drop forgers.

(10) Musical instruments, toys, novelties, jewelry, rubber or metal stamps.

(11) Office equipment.

(12) Pottery and figurines, using only previously pulverized clay and kilns fired only with gas or electricity.

(13) Products from the following previously prepared materials; paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco, where such materials and all of the activities related production of such materials are wholly contained within fully enclosed structures.

(14) Textile products including canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope and twine.

- (15) Laboratories, offices and other facilities for research, both basic and applied, conducted by or for any industrial organization or concern, whether public or private.
- (16) Printing, engraving and related reproduction processes.
- (17) Public utilities rights-of-way and pertinent structures.
- (18) Publishing and distribution of books, newspapers, and other printed materials.
- (19) Processing of food and related products where the materials and processing activities are wholly contained within fully enclosed structures.
- (20) Catering establishments; breweries, distilleries, and wineries.
- (21) Manufacture, repair, or assembly of machinery, equipment, or instruments, including, but not limited to, coding and labeling systems and machinery, packaging machinery.
- (22) Manufacture of glass, glassware and pressed or blown glass.
- (23) Movie Production facilities.
- (24) Distribution and warehousing operations related to the above listed permitted uses.

Products may be finished or semi-finished and are generally made for the wholesale market, for transfer or other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Light manufacturing or production does not produce excessive noise, dust, vibration, or fumes in excess of federal or state permitted standards. Painting and any printing processes may be allowed in the manufacturing process so long as all environmental and safety regulations are followed. The permitted uses contained herein are not meant or intended to be exhaustive. The Zoning Administrator shall be permitted to use discretion to determine if any use not specifically listed or defined herein shall be permitted within the Transition Zone without the necessity of making application before the Planning and Zoning Commission for approval and inclusion.

2. **MINIMUM AREA REQUIREMENTS:** The minimum area required for a new development within a TZD shall be a gross land area of ten (10) acres.

3. **SETBACK REQUIREMENTS FOR NEW DEVELOPMENT/EXPANSIONS:** The location of all structures shall be as shown on the final approved plat. Minimum lot size, front, rear, and side yard lines, and lot width shall be established by the Planning and Zoning Commission at the time of concept approval, consistent with the intent of this chapter and sound planning practices. Planning and Zoning Commission may be guided by standards set elsewhere in this section for comparable conditions and by common good practice. The relationship of buildings to each other, to the local street system, and to open space land shall be consistent with the intent of this section.

4. **INTENSITY OF LAND USE:** Because land is used more efficiently in a TZD, improved environmental quality can often be produced with a greater density of development per gross acre than usually permitted in a traditionally zoned district. The Planning and Zoning Commission shall determine in each case of new development or facility expansions the appropriate land use and density for projects or sections thereof.

a. Land use ratios of new development or facility expansions are to be determined based on the approved preliminary development plan.

5. **COMMON PROPERTY:** Common property in a TZD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants. When common property exists, the ownership of such common property may be either public or private. When common property exists, satisfactory arrangements shall be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service and parking areas, and recreational and open spaces. The landowner shall provide for and establish an organization for the ownership and maintenance of any private common open space, and such organization shall not be dissolved nor shall it dispose of any common open space.

6. **CONFLICT OF RESTRICTIONS:** Wherever there is a conflict or difference between the provisions of this section and those of other sections of this ordinance, the provisions of this section shall prevail. Subjects not covered by this sections shall be governed by the respective provisions found elsewhere in this ordinance unless otherwise approved by the Planning Commission.

7. **UTILITIES:** All utilities, including communication and electrical systems within new developments shall be placed underground within the limits of a TZD. Appurtenances to these systems may be accepted.

8. **STREETS:** The design and designation of all streets, public or private, shall be subject to the approval of the Planning Commission where necessary. Because of the nature of a TZD and the intent of this section, the overall shape and dimension of new street right-of-way shall be at the discretion of the Planning and Zoning Commission.

9. **COMMERCIAL DESIGN:** The plan of a new development project shall provide for the integrated and harmonious design of buildings in commercial and industrial area and such parcels shall be developed in park-like surrounds utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas, and other features from the adjoining and surrounding residential areas.

10. Design guidelines for new developments shall be submitted to and approved by the Design Review Board along with the preliminary development plan approved by the Planning Commission.

D. APPLICATION AND APPROVAL PROCEDURES: Whenever a TZD is proposed, before a permit for the erection of a permanent building or building expansion(s) in such TZD shall be granted, and, if applicable, before a subdivision plat of any part thereof may be filed in the office of the Planning and Zoning Commission, the developer or his or her authorized agent shall apply and secure approval of such TZD in accordance with this section. Review of the project shall take place in three (3) phases. At the culmination of each phase, the applicant must receive the necessary approvals from the City of Newport Planning Commission prior to proceeding with subsequent review phases. Lack of sufficient or continuous progress as defined herein, either through or between phases, may lead to nullification of all approvals by the City of Newport Planning and Zoning Commission. Approval of any one phase does not guarantee approval of any subsequent phases.

1. PHASE I - CONCEPT APPROVAL:

a. **Concept Plan:** In order to allow the Planning Commission and the developer to reach an understanding on basic design requirements prior to detailed design, the applicant shall submit:

- (1) A legal description of the metes and bounds of the parcel.
- (2) An area map and/or aerial photograph showing adjacent property and existing uses within three hundred (300) feet of the proposed PUD parcel.
- (3) A sketch plan approximately to scale, though it need not be to the precision of a finished engineering drawing; and it should show the following:
 - a) The existing topographical features of the site;

- b) General map of the watershed in which the project is to be located;
 - c) Location of the various uses and their areas in acres;
 - d) The general outlines of the interior roadway system and all existing rights-of-way and easements whether public or private;
 - e) Delineation of the various residential and non-residential areas, indicating for each area, its general extent, size, and composition in terms of total number of dwelling units and approximate percentage allocation by dwelling unit type;
 - f) Calculation of the residential density in dwelling units per gross acre including interior roadways;
 - g) The interior open space system;
 - h) Where portions of the site are subject to flooding, the map shall indicate extent and frequency;
 - i) Principal ties to the community at large with respect to transportation, water supply, and sewage disposal;
 - j) General description of the availability of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and how these facilities are affected by these proposals;
 - k) Evidence that the proposed TZD is compatible with the goals of the city's Official Comprehensive Plan;
 - l) General statement as to how common open space is to be owned and maintained;
 - m) If the development is to be phased, a general indication of how the phasing is to proceed. Whether or not the development is to be phased, the sketch plan shall show the intended total project.
- b. The Planning and Zoning Commission shall review the concept plan and its related documents at a public hearing and shall render a written report to the applicant within fifteen (15) days of the public hearing. The Planning Commission may call upon other public or private entities to provide a sound review of the proposal. The Planning and Zoning Commission may require preliminary approval from other city or state agencies. The Commission need only concern themselves with general conceptual merit, and in no way shall commit any future acceptance or rejection of detailed design elements required in subsequent phases of plan review. The written report shall include the following:
- (1) Whether the proposal meets the intent and objectives of this PUD section;
 - (2) Whether the proposal is conceptually sound in that it conforms to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the developed elements;
 - (3) Whether there are adequate services and utilities available or proposed to be made available in the construction of the project.

c. If the Planning and Zoning Commission grants approval or approval with conditions of the proposed PUD conceptual plan, then the applicant may proceed to Phase II.

E. PHASE II - PRELIMINARY PLAT PETITION:

1. APPLICATION FILING AND PUBLIC NOTIFICATION: After having received approval of the proposed TZD conceptual plan, the applicant, with respect to a new development, building or facility expansion, may then proceed to Phase II of the approval process. Application for preliminary plat approval shall be submitted to the City of Newport Planning and Zoning Commission. The proposed preliminary plat and any supportive documents shall be filed with Planning and Zoning Commission Office at least fifteen (15) days in advance of the public hearing at which the proposed plat is to be reviewed. The applicant shall meet all Planning and Zoning Commission public hearing requirements as set out in KRS Chapter 424.

2. CONTENTS OF PRELIMINARY PLAT: The preliminary plat shall be filed in three (3) copies at a scale not greater than 1"=100' and include the following:

- a. An area map showing the applicant's entire holding, that portion of the applicants property under consideration, and all properties, subdivisions, streets and easements within three hundred (300) feet of the applicant's property.
- b. A topographic map of the entire area showing contour intervals of not more than five (5) feet of elevation shall be provided. Where existing ground is on a slope of less than two percent (2%), the plan shall show either one (1) foot contours or spot elevations where necessary, but not more than fifty (50) feet apart in all directions.
- c. A preliminary site plan including the following information:
 - (1) Title of drawing, name of project, name and address of applicant.
 - (2) The land use plan identifying existing and proposed uses and building by type, location, quantity, design, floor area, and density of specific sections and the project in total.
 - (3) North point, scale and date.
 - (4) Existing and proposed watercourses.
 - (5) Street layout and design.
 - (6) The open space plan and planned sites for schools, recreation areas, community centers, and other public improvements where applicable.
 - (7) Location of all existing or proposed site and off-site improvements, including drains, ditches, culverts, retaining walls, and fences; descriptions and location of method of sewage disposal and water supply; location and size of all signs (street name and traffic control); location and design of street and parking lighting; and the amount of building area proposed for non-residential uses, if any.
 - (8) A plan for phasing the construction of the project, showing the geographical coverage of future plats, their approximate sequence of development, and the tentative timetable for development. It is the intent of this section that the tempo and sequence of development in a PUD be such that land uses which provide only moderate local revenues, yet require large municipal and school service costs, are scheduled simultaneously with those that provide larger local revenues yet which are not as costly to service.
- d. The Planning and Zoning Commission may require, if all or part of the gross land area of the PUD has moderate to high susceptibility to flooding, a transparent overlay showing all soils, areas, and their classifications; as well as those areas susceptible to flooding, or moderately or highly susceptible to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and tree coverage.

3. **FACTORS FOR CONSIDERATION:** The Planning and Zoning Commission's review of a preliminary site plan, for a new development or building or facility expansion shall include, but shall not be limited to, the following considerations:

- a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, signs, and traffic controls.
- b. Adequacy and arrangement of pedestrian traffic access and circulation; separation of pedestrian from vehicular traffic; and pedestrian convenience.
- c. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
- d. Location, size, and placement of buildings, lighting and signs.
- e. Type and arrangement of landscape features.
- f. Adequacy, location, and size of storm water and sanitary waste disposal facilities.
- g. Adequacy of structures or roadways in areas with moderate to high susceptibility to flooding, pending, or erosion.
- h. Conformance with other specific requirements of the Planning and Zoning Commission, which may have been stated in the PUD conceptual plan approval.
- i. In its review, the Planning and Zoning Commission may consult with the City Engineer, other departments or officials, as well as with the representatives of federal and state agencies such as the Soil Conservation Services, or Department of Natural Resources. The Planning and Zoning Commission may also require such additional provisions and conditions that appear necessary for the public health, safety, and general welfare.
- j. That property adjacent to the proposed development will not be adversely affected.

4. **ACTION ON PRELIMINARY PLAT PLAN:** Within thirty (30) days of the public hearing at which the preliminary plat is submitted for approval, the Planning and Zoning Commission shall act on it. If no decision is made within said thirty (30) day period, the preliminary plat plan shall be considered conditionally approved. The Planning and Zoning Commission's actions shall be in the form of a written statement to the applicant stating whether or not the preliminary plat plan is conditionally approved. A copy of the appropriate minutes of the Planning and Zoning Commission shall be sufficient report.

5. The Planning and Zoning Commission's statement may include recommendations as to desirable revisions to be incorporated into the final plat plan, of which conformance with shall be considered a condition of approval. However, such recommendations shall be limited to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the conceptual plan proceedings. If the preliminary plat plan is disapproved, the Planning and Zoning Commission's statement shall contain the reasons for such findings. In such a case the Planning and Zoning Commission may recommend further study of the plat plan and re-submission of the preliminary plat plan to the Planning and Zoning Commission after it has been revised.

F. PHASE III - FINAL DEVELOPMENT PLAN AND FINAL PLAT REQUIREMENTS:

1. **APPLICATION FOR FINAL DEVELOPMENT PLAN APPROVAL:** After receiving the conditional approval from the Planning and Zoning Commission on a preliminary plan and approval for all necessary permits and curb cuts from city and/or state officials, the applicant may prepare his or her final Development Plan and submit it to the Planning and Zoning Commission for final approval. The Final Development Plan shall conform substantially to the preliminary plat plan that has received conditional approval. It should incorporate any revisions or other features that may have been recommended by the Planning and Zoning Commission during concept plan and preliminary plat and review procedures.

2. **FINAL PLATTING PROCEDURES:** The elements of the final plat shall consist of:

a. Plat or plats of the subject property drawn to a scale of not greater than one (1) inch equals one hundred (100) feet, suitable for recording and which will be recorded in the office of the County Clerk, after final approval by the Planning and Zoning Commission. The plat or plats shall conform to the applicable requirements of the subdivision regulations, unless specifically waived by the Planning and Zoning Commission, and in addition to the following:

- (1) All areas reserved for common ownership with an indication of the properties the owners will share in common.
 - (2) Such lot or parcel lines indicating tracts, which are, now in separate ownership or which may be transferred to other ownership during or after development. (Resubdivision of large lots containing several buildings may be accomplished at a later date upon application and approval);
 - (3) Indication of areas to be developed for residential (by type of housing unit), commercial, public and semi-public uses.
- b. In addition to and along with the final plat, the applicant shall also submit a final development plan, at a scale of not greater than one (1) inch equals one hundred (100) feet, which shall set forth, identify, and locate the following:
- (1) The proposed finished grade of the subject property shown by contours with intervals not larger than two (2) feet supplemented where necessary, by spot elevations;
 - (2) All walks, mats, and other open areas, including recreational areas, swimming pools, golf courses, tennis courts, playgrounds, and the like.
 - (3) The location and type of all walls, fences, screen plantings, and landscaping;
 - (4) The location, size, height, and orientation of all signs;
 - (5) The types of surfacing proposed on the various off-street parking, and driveways including cross sections and drainage plans;
 - (6) Location and cross section drawings of all proposed streets, highways, alleys, and walkways, indicating the proposed surfacing and drainage plans;
 - (7) A plan showing all existing and proposed utilities, indicating, where applicable, pipe sizes, types, and grades;
 - (8) A drainage plan of the natural and storm sewer system of the area showing size and location of each existing and proposed structure, the approximate volume of runoff water generated by development of the subject area and the proposed method of disposing of said water. Provisions shall be included for adequate control of erosion, hillside slippage, and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
 - (9) Plans and drawings required above may be combined in any suitable and convenient manner so long as the data required is clearly indicated on one or more of said plans. A separate plan or drawing for each element is not necessary, but may be provided at the option of the applicant.
 - (10) A final schedule of development staging and phasing as set forth elsewhere in this chapter.
 - (11) Sketches of the exteriors of several representative buildings in the project. It is intended that neither uniformity of architectural style nor unnecessary diversity thereof be a prerequisite to approval, but the developer is encouraged to exercise ingenuity in achieving a harmonious entity without undue attention to

consistency. The purpose of this subsection is to permit development flexibility greater than that permitted by other sections of this section.

c. The Final Development Plan: After approval by the Planning and Zoning Commission, shall be delivered to the Zoning Administrator, who shall grant permits only in accordance with the approved development plan and other plans as required by this section.

G. SUPPLEMENTAL REGULATIONS:

1. PROCEEDINGS: All proceedings brought under this section shall be subject to the rules of procedure of the Planning and Zoning Commission, where not inconsistent with the procedure otherwise stated herein, except that notice by publication shall be sufficient notice for proceedings related solely to approval and modification of preliminary plat plans and final plat plan.

2. MODIFICATION: In the exercise of its continuing jurisdiction, the Planning and Zoning Commission may, from time to time, modify the approved final plat plan in a manner consistent with the approved preliminary plat plan to allow for changed circumstances and conditions unforeseen at the time of the original approval.

3. REQUEST FOR CHANGES: If in the development of the site, it becomes apparent that certain elements of the plan are not feasible and in need of significant modification, the applicant shall then present his or her solution to the Planning and Zoning Commission. The Planning and Zoning Commission shall then determine whether or not the modified plan is still in keeping with the intent of the Comprehensive Plan and zoning district with respect to the specific property. If a negative decision is reached, the site plan shall be considered as disapproved. The applicant may then produce another site plan solution. If an affirmative decision is reached, the Planning and Zoning Commission shall so notify the Zoning Administrator, stating all of the particulars of the matter and authorizing the modifications as approved.

4. EXPIRATION OF APPROVAL: Approval by the Planning and Zoning Commission shall expire after a period of five (5) years from the approval of the TZD's Development Plan unless the development is fifty-one percent (51%) completed in terms of public improvements such as power, gas, water, and sanitary sewers, in which latter instance an extension of time may be granted by the Planning and Zoning Commission not to exceed five (5) successive periods of two (2) years each.

5. RECORDING: All approved final plat plans and modifications thereof shall be recorded in the appropriate plat books in the office of the County Clerk after approval by the Planning and Zoning Commission.

(Am. Ord. O-2008-020, passed 9-8-2008; Am. Ord. O-2014-003, passed 3-24-2014; Am. Ord. O-2014- 021, passed 12-15-2014)

SECTION 9.33 SIGN OVERLAY DISTRICT (SOD)

A. GENERAL PURPOSE: The purpose of the Sign Overlay District is to enhance the unique character and identity of the area by encouraging iconographic and inventively illuminated graphics and signage that establish Newport, Kentucky as "the" entertainment destination center for the region.

B. OVERALL DESCRIPTION: These provisions shall apply to the Sign Overlay District and signs may be erected, altered and maintained for the uses permitted in the underlying zone and may be used for outdoor advertising devices.

C. BOUNDARIES OF SIGN OVERLAY DISTRICT: The boundaries of the Sign Overlay District are Riverboat Row on the North, Washington Street on the East, Third Street on the South and Columbia Street on the West.

D. MEDIA AND SIGN TYPES: The following wall, window, ground, arcade, roof, freestanding and projecting signs and media may be permitted within the Sign Overlay District. Fascia Mounted, Pre-Printed Media, Blade, Hanging, Painted Wall, Window Graphics, Pan Channel Lettering, Electronic Message Center, Fiber Optic Display, Kinetic, Sculptural, Neon, Scrim/Translucent/Mesh Material, Marquee, Projected Light, Tri-Vision, Sign with 3D Extension, Monument and Kiosk signs ("Signs").

E. PERMITTED SIGN LOCATIONS AND DIMENSIONS: Signs will be permitted on the building facades as shown on the attached approved diagrams ("Approved Signs"), made a part hereof and incorporated by reference and limited to the percentage of the total square footage areas set forth in the Facade Coverage indications as to each. The inclusion of any new diagrams and Signs in the Sign Overlay District shall require a public hearing before the Planning and Zoning Commission before approval and submission to the Board of Commissioners. Ground signs, if approved, shall have a maximum height of 30 feet and must be located within 10 feet of an existing building structure.

F. PERMITTED ILLUMINATION: Application of media and Signs may be illuminated, provided those Signs visible from highways abide by any existing regulations as stipulated by the U.S. Department of Transportation.

G. SIGN APPROVAL:

1. Signs within a development, either internally projecting or facing the interior of a project, such as Newport on the Levee, which may or may not be visible from the exterior of a project ("Interior Facing/Oriented Signs") are permitted and may be animated.

2. Any Application ("Application") for a permit for any Interior Facing/Oriented Sign shall be submitted to the Zoning Administrator for approval and issuance of a permit. In the event that an Application is denied by the Zoning Administrator, an appeal of the denial shall be made to the Planning and Zoning Commission within 30 days of the action of the Zoning Administrator.

3. Any Application for a permit for any Sign on the exterior facades ("Exterior Signs") shall be submitted to the Zoning Administrator for review, who shall then, along with his or her recommendation, submit the Application to the Urban Design Review Board ("Board") for review and approval. The Board shall, when considering such request, review and apply the purposes set forth in the Sign Overlay District and make such decision in the spirit thereof. The Application for an Exterior Sign shall include the proposed location, size and type of Sign(s) requested. In the event the Board shall approve the same, the Zoning Administrator shall then issue the requisite permit. In the event any such Application is denied by the Board, an appeal shall be made to the Planning and Zoning Commission within 30 days of the action of the Board.

4. If an Application is denied, a new Application with a revised plan may be submitted at any time.

5. Any stylistic change as to the types of Exterior Signs which are not included in the Approved Signs shall be submitted to the Board for approval.

H. MINOR DEVIATIONS TO THE APPROVED APPLICATION: The Zoning Administrator may authorize minor deviations from the approved Application or the approved plan for individual signs, including, but not limited to, when such deviations appear necessary in light of technical or engineering advances.

I. CONFLICT BETWEEN PROVISIONS: In the event of any conflict between these provisions and the provisions of the Zoning Ordinance, the provisions of the Sign Overlay District shall prevail; provided, however, pre-existing signs within the Sign Overlay District will be administered in accordance with the applicable sign sections in the Zoning Ordinance.

Site Specific Signs NOTL

Location: East Facade Galleria Building

Facade Coverage: Sign[s] must occur within the defined shaded area.

Roof Line notes: No sign will extend above roofline

Approved Sign Types: Pre-Printed Media, Painted Wall, Scrim/Translucent/Mesh Material, Projected Light, Pan Channel, Fascia Mounted

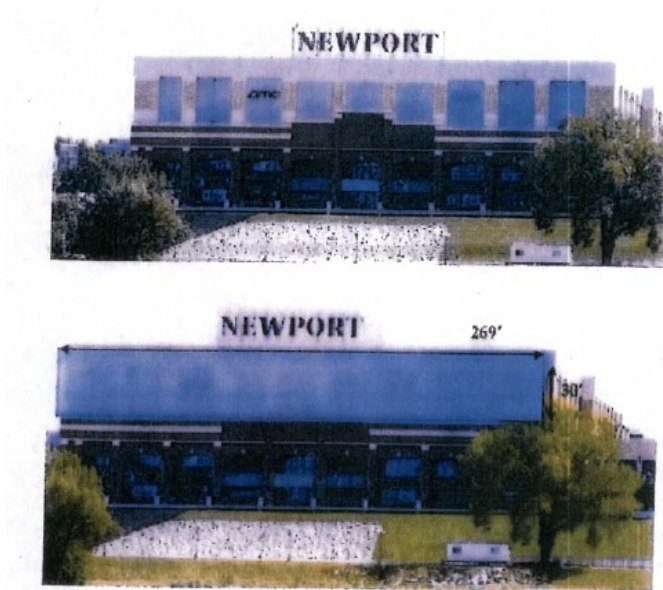


Location: North Facade Galleria Building

Facade Coverage: Sign[s] will not exceed 35% of the total square footage of the building's north facade and must occur within the defined shaded area.

Roof Line notes: Sign[s] may NOT exceed roofline [The current Newport sign will remain alone on the roof]

Approved Sign Types: Pre-Printed Media, Painted Wall, Pan Channel Lettering, Scrim/Translucent/Mesh Material, Projected Light.

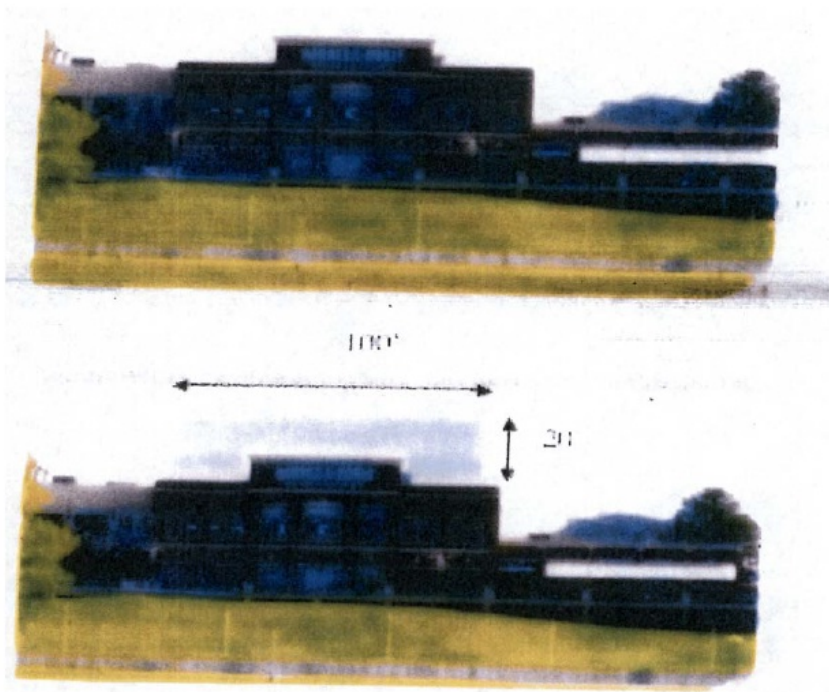


Location: North Facade Building C [Barnes & Noble, Mitchell's]

Facade Coverage: Sign[s] will not exceed 35% of the total square footage of the building's north facade and must occur within the defined shaded area.

Roof Line notes: Sign[s] may exceed roofline by no more than 20 feet

Approved Sign Types: Pre-Printed Media, Painted Wall, Pan Channel Lettering Scrim/Translucent/Mesh Material, Projected Light, which shall be for a single advertiser and which shall enhance the architectural relevance and integrity of the building's structure.

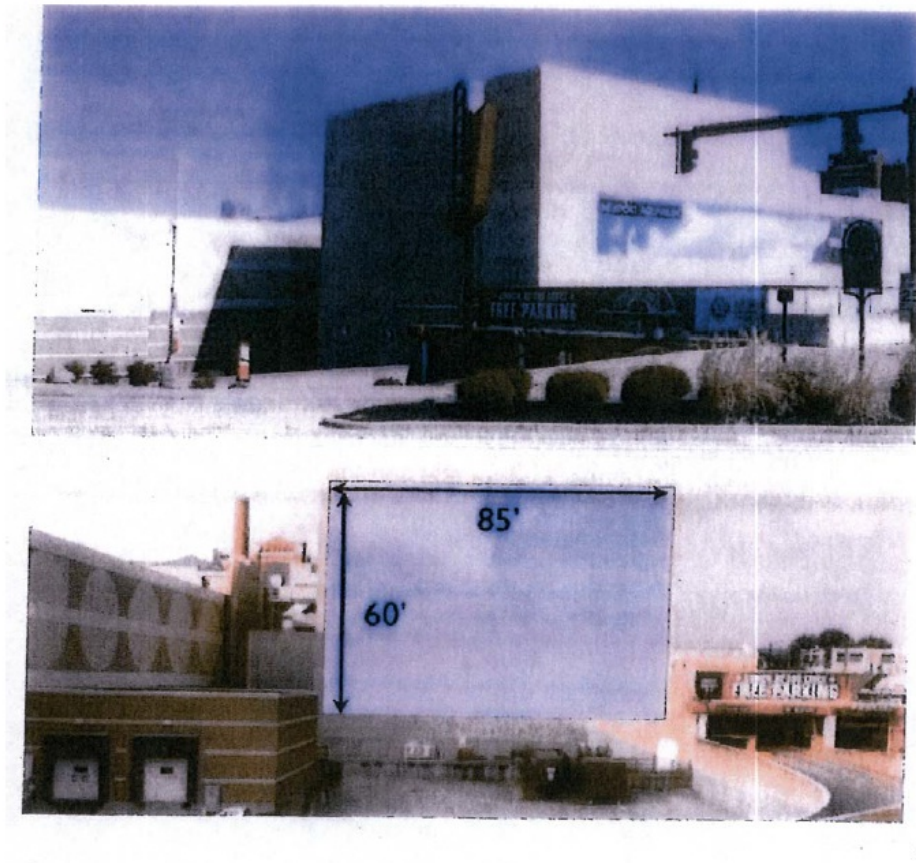


Location: West Facade Imax Building

Facade Coverage: Sign[s] will not exceed 80% of the building's west facing facade and must occur within the defined shaded area.

Roof Line notes: Sign[s] will not exceed roofline

Approved Sign Types: Pre-Printed Media, Painted Wall, Projected Light, Sign with 3D Extension.

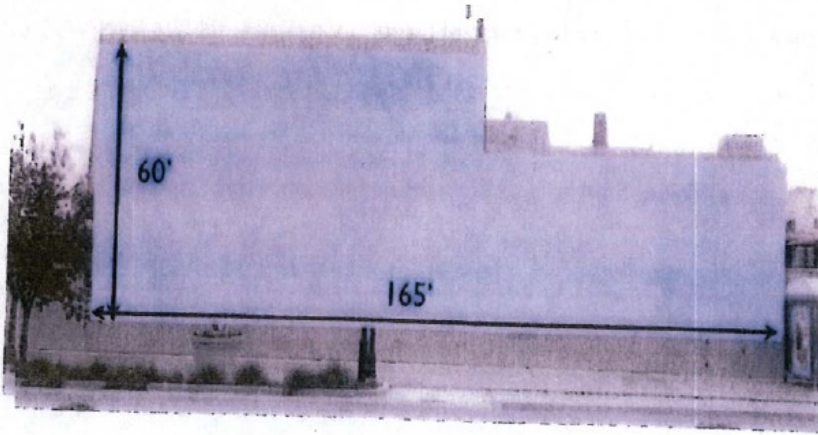


Location: South Facade Imax Building

Facade Coverage: Sign[s] will not exceed 90% of the building's south facing facade and must occur within the defined shaded area.

Roof Line notes: Sign[s] will not exceed roofline

Approved Sign Types: Pre-Printed Media, Painted Wall, Pan Channel Lettering Projected Light, Sign with 3D Extension.

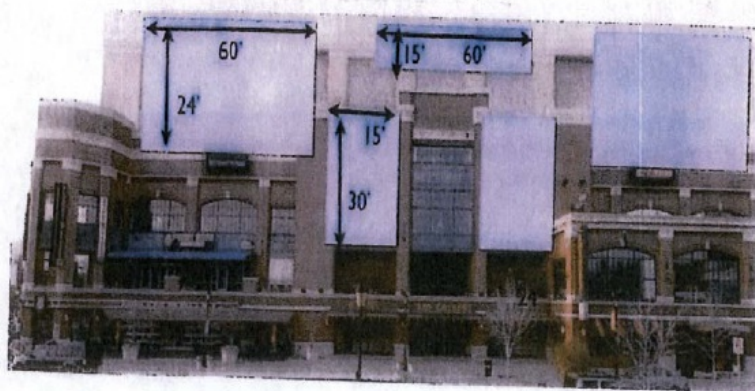


Location: South Facade Galleria Building

Facade Coverage : Sign[s] will not exceed 30% of the square footage of the buildings' south-facing facade and must occur within the defined shaded area.

Roof Line notes: Sign[s] will not exceed roofline

Approved Sign Types: Pre-Printed Media, Blade, Painted Wall Scrim/Translucent/Mesh Material, Projected Light, Sign with 3D Extension.



Location: West Facade Galleria Building

Facade Coverage: Sign[s] will not exceed 30% of the square footage of the building's west facing facade and must occur within the defined shaded area.

Roof Line notes: Sign[s] will not exceed roofline

Approved Sign Types: Pre-Printed Media, Painted Wall, Electronic Message Center Projected Light, Sign with 3D Extension.

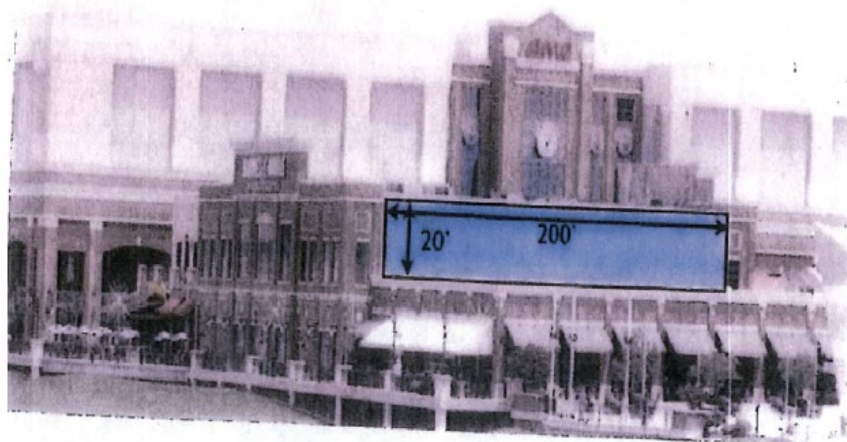
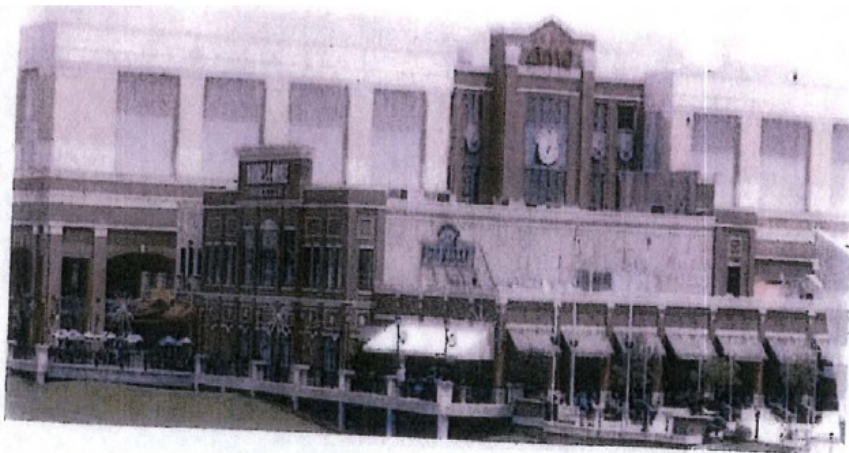


Location: West facing facade of Banding C [Barnes and Noble, Mitchell's & Brothers]

Facade Coverage: Sign[s] to be placed on the building's facade, within the defined shaded area

Roof line notes: Sign[s] may not be placed on the roof of the 1 story structure

Approved Sign Types: Facia Mounted, Pre-Printed Media, Painted Wall, Electronic Message Center, Scrim/Translucent/Mesh Material, Projected Light, Sign with 3D Extension

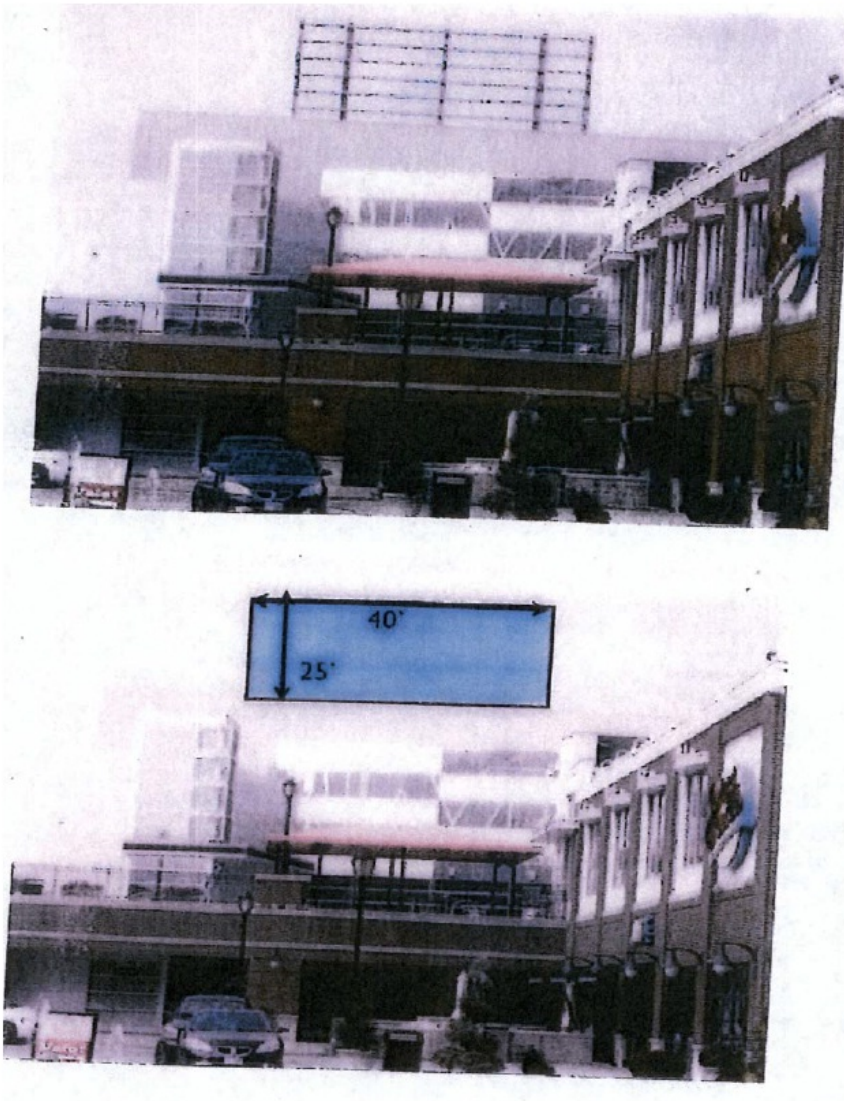


Location: East Facade Imax Building [current sign]

Sizes: Approximate square footage of existing sign 1,125 [45' X 25'] and must occur within the existing sign support structure

Roof Line notes: Sign currently exceeds roofline

Approved Sign Types: Pre-Printed Media, Electronic Message Center, Projected Light, Sign with 3D Extension



ARTICLE X ZONING REGULATIONS

SECTION 10.0 DISTRICT REGULATIONS

SECTION 10.1 CONSERVATION DISTRICT

The purpose of the Conservation District is to preserve key areas of open space along the riverfront as well as other areas within the City where preserving an open view or natural amenity and/or floodplain area benefits the community. The conservation district provides an area within which parks, recreation or agricultural use of open space is permissible.

A. USES PERMITTED:

1. Open spaces or natural habitats.
2. Public owned and/or operated parks and/or recreation areas, including public swimming pools.
3. Eating and drinking places.
4. Hotels, offices, and/or residential uses so long as such uses are part of a Master Development Plan for the site, as approved by the Planning Commission and Board of Commissioners.
5. Museum.

B. ACCESSORY USES:

1. Customary accessory buildings and uses.
2. Fences and walls as regulated by Article XII of this Ordinance.

3. Signs as regulated by Article XV of this Ordinance.

C. **CONDITIONAL USES:** No building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory buildings or uses be permitted until and unless the location of such use shall have been applied for and approved of by the Board of Adjustment as set forth in SECTION 9.13 of this Ordinance.

The following uses are permitted facilities in or adjacent to navigable waters of the Corp of Engineers, and Division of Water, State Department of Natural Resources, and such statement of approval or denial shall be submitted to the Board of Adjustment at the time of submittal for a conditional zoning certificate.

1. **Boat Harbors and Marinas** The following uses shall be permitted as accessory uses in connection with any boat harbor or marina and primarily intended to serve only persons using the boat harbor or marina.

- a. boat fueling, service and repairs
- b. sale of boat supplies
- c. grocery store
- d. restaurant
- e. clubhouse and lockers

2. Public boating landing or launching facilities

3. Dockage facilities

4. Off street parking facilities and/or temporary parking of boat trailers including spaces large enough to accommodate automobiles pulling boat trailers.

D. **AREA AND HEIGHT REGULATIONS:** No building shall be erected or structurally altered hereafter except in accordance with a development plan as reviewed and approved by the Newport Planning and Zoning Commission.

E. **OTHER DEVELOPMENT CONTROLS:**

1. All "Uses Permitted" and "Conditional Uses" permitted in this zone shall require a certificate of approval from the City Engineer, certifying his approval of the type of the manner of construction to be built (ensuring that such construction shall not cause flood hazards, soil erosion, adverse changes in the natural drainage courses or unnecessary destruction of natural features) which completed certificate shall be submitted to the appropriate officer of Board of Commissioners, as required herein, at the time of request.

2. Off street parking and loading or unloading shall be provided in accordance with Articles XIII and XIV of this Ordinance.

3. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed metal containers.

4. No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right of way or into any residential zone.

5. Where any yard of any uses permitted in this zone abuts a residential zone, a minimum yard requirement of ten (10) feet from each side and/or rear yard, which abuts, said zone shall be provided, ten (10) feet of which shall be maintained by a screening area as regulated by SECTION 9.16 of this Ordinance.

6. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

7. A development plan, as regulated by SECTION 9.19 of this Ordinance, shall be required for any use permitted in this zone.

SECTION 10.2 RESIDENTIAL DISTRICTS

A. **DISTRICT DEFINED:**

1. **R-1 RESIDENTIAL ONE ZONE:** The R-1 Zone is intended to be limited to dwellings and public or semi public uses which are normally associated with residential neighborhoods. The only uses permitted in this district are those, which would not detract from the residential character of the neighborhood. Conversion of existing structures should be discouraged. Densities in this area should generally be below ten (10) units per acre. New residential developments under this zone should however, be discouraged at densities above seven (7) units per acre. The purpose of this district is to create an attractive, stable and orderly single-family residential environment.

2. **R-2H RESIDENTIAL TWO HILLSIDE ZONE:** The R-2H Zone is intended to stabilize and protect the urban residential character within areas of the southern section of the city by permitting a higher density of single-family residences. New development, redevelopment and rehabilitation in this zone should mirror existing uses closely. In-fill development shall be submitted to and approved by the Planning and Zoning Commission. Densities range from approximately 10 to 17 units per acre.

3. **R-2 RESIDENTIAL TWO ZONE:** The R-2 Zone is intended to stabilize and protect the urban residential character within the older eastern section of the City by permitting a mixture of single and two family residences, and selective types of existing neighborhood retail and service establishments as defined herein. New development, redevelopment and rehabilitation in this zone should mirror existing uses closely. Conversion of structures should be appropriate only when the size of the structure and land surrounding it allow such renovation. In fill development shall be submitted to and approved by the Planning and Zoning Commission. Densities range from approximately 10 to 17 units per acre.

4. **R-3 RESIDENTIAL THREE ZONE:** The R-3 Zone is intended to stabilize and protect the urban residential character within the older western section of the City by permitting a mixture of single and two family residences, and selective types of existing neighborhood retail and service establishments. New development, redevelopment and rehabilitation in this zone should mirror existing uses closely. Conversion of structures should be appropriate only when the size of the structure and land surrounding it allow such renovation. In fill development shall be submitted to and approved by the Planning and Zoning Commission. Densities range from approximately 12 to 21 units per acre.

5. **R-4 RESIDENTIAL FOUR ZONE:** The R-4 Zone is intended to provide a district within which medium density two family, three family and multi family dwelling units are permissible along with public or semi public uses which are normally associated with residential neighborhoods. Density shall not exceed 10 units per acre.

6. **R-5 RESIDENTIAL FIVE ZONE:** The R-5 Zone is intended to provide a district within which high-density multi family dwelling units are permissible. This zone also allows a mixture of ancillary retail or office uses that would compatibly serve the residential neighborhood created through this district. New development would be encouraged as townhouses or apartment/condominiums on in fill sites. Rehabilitation of existing larger structures (retail, institutional

and residential) would be encouraged as residential space. Single family residential and large scale commercial development should be discouraged. Densities shall not exceed 1 (one) unit per 2,178 square feet.

B. PERMITTED USES:

1. The permitted uses for each zone are shown in the following Table. Uses listed for the five residential zones shall be according to the common meaning of the term or according to definitions given in this Ordinance. The permitted uses contained herein are not meant to be exhaustive. The Zoning Administrator shall be permitted to use discretion to determine if any use not specifically listed or defined herein shall be permitted within the District without the necessity of making application before the Planning and Zoning Commission for approval and inclusion.

TABLE 4
PERMITTED USES: RESIDENTIAL ZONES

<i>R-1</i>	<i>R-2H</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>R-5</i>	<i>PERMITTED USES:</i>
P	P	P	P	X	X	Single Family Dwelling (Detached)
X	P	P	P	P	P	Single Family Dwelling (Attached)
X	X	P	P	P	X	Two Family Dwelling
X	X	X	X	P	P	Multi Family Dwelling
P	P	X	X	P	P	Planned Unit Development
(P-Signifies Permitted Uses; X-Signifies Uses Not Permitted)						

2. In the R-2 and R-3 zones existing single family residential structures may be converted to provide two (2) dwellings units for use by two families, provided that a minimum lot area of 4,000 square feet is maintained in the R-2 Zone and a minimum lot area of 3,500 square feet is maintained in the R-3 Zone. The entire building when so converted shall comply with all the requirements of the Building Codes of the City of Newport, which are applicable to newly constructed multi-family dwellings.

3. Specially permitted uses shall be allowed in the R-2 and R-3 zones provided said uses complies with all requirements for permitted uses and any special provisions as noted in this section.

- All special permitted uses must be located in an existing structure, originally constructed for neighborhood business purposes.
- The existing structure shall not be expanded.

c. The following neighborhood and service establishments are special permitted uses: delicatessen, drug store, barber shop, grocery store, barber and/or beauty shop, shoe repair store, ice-cream store, laundry and/or dry cleaning establishments, candy or pastry stores, newspaper and magazine store, arts and crafts store, book, card, stationary store, craftsman or artisan shop.

d. Professional Offices such as attorneys, accountants, architects and the like will also be conditionally permitted within the R-2 and R-3 zones provided they meet all other regulations contained herein as well as receive permission from the Board of Adjustments.

C. ACCESSORY USES:

1. The following accessory uses are permitted in all residential zones:

- Customary accessory buildings and uses.
- Fences and walls as regulated by Article XII of this Ordinance.
- Signs as regulated by Article XV of this Ordinance.

2. In the R-5 Zone, the following uses, included within and entered from within any use permitted in this zone primarily as a convenience and for the service of the occupants thereof, providing such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays for any accessory uses shall be visible from outside the building:

- Barber shop
- Beauty shop
- Bookstore and/or newsstand
- Bowling alley
- Flower shop
- Gymnasium
- Hobby shop
- Indoor outdoor swimming pool
- Pharmacy and/or drug store
- Professional offices
- Snack bar

D. CONDITIONAL USES:

1. In all residential zones, no building or occupancy permit shall be issued for any of the following, nor shall any of the following uses or any customary accessory building or uses be permitted until and unless the location of said use shall have been applied for and approved by the Board of Adjustment as set forth in Section 9.13 of this Ordinance. No alterations, additions or expansion of the existing structure or property shall be permitted until approved by the Planning Commission as set forth in Section 9.19 of this Ordinance. All conditional uses under Item #1 are to be located in existing structures except where otherwise stated.

- a. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street.
 - b. Institutions for higher education providing they are located adjacent to an arterial street.
 - c. Institutions for human medical care hospitals, clinics, and sanitariums, convalescent homes, nursing homes, group homes, and homes for the aged providing they are located adjacent to an arterial street and that such uses shall be subject to the requirements of the Property Maintenance Code and Section 9.19 of this Ordinance.
 - d. Nursery school.
 - e. Public and parochial schools.
 - f. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools (as regulated under Section 9.18 of this Ordinance), and libraries.
 - g. Recreational uses other than those publicly owned and/or operated as follows:
 - (1) golf courses;
 - (2) country clubs;
 - (3) semi public swimming pools; and
 - (4) other similar recreational uses, which will compliment recreation programs, offered by the City, or by schools within the City.
2. In the R-2, R-3, R-4, and R-5 Zones, the following additional conditional uses shall be permitted subject to the requirements of Section 9.13:
- a. Government offices.
 - b. Police and fire stations providing they are located adjacent to an arterial street.
 - c. Funeral homes, providing they are located adjacent to an arterial street.
3. In the R-2 and R-3 Zones, the following additional conditional uses shall be permitted subject to the requirements of the Section 9.13:
- a. Institutions devoted to the creative and performing arts, such as theatrical production, art studios and dance studios.
 - b. Youth shelters, provided that the total number of occupants, including a resident manager, shall be subject to the requirement of the property maintenance code.
 - c. Nonprofit, non-residential human services whose primary service recipients are citizens of Newport and provided further that no overnight sleeping accommodations are offered.
 - d. Non-profit, charitable support clubs whose primary purpose is the giving of support through fellowship counseling and education to member(s) who must be limited to individuals facing and/or overcoming a recognized physical or emotional illness and to families of said member(s). Such club(s) may not permit the use of alcohol or drugs on its premises, nor shall a clinic be permitted. No residential or sleeping accommodations shall be allowed at any time on the premises. Food preparation or the dispensing of prepared meals or food products, including food pantries, shall not be permitted.
4. To promote the additional reuse of non-residential structures in the R-2 and R-3 zone, professional office uses may be conditionally permitted as defined herein. Professional offices may be conditionally permitted in residential zones under the CCO District. Provided they meet all other requirements of this ordinance. In addition to the requirements of Section 9.13 (Conditional Buildings and Uses) of this Ordinance, adaptive reuse of existing non-residential structures shall be governed by the following:
- a. Section 9.16 Screening Area
 - b. Section 9.19 Development Plan Requirements
 - c. Article XII Fences, Walls and Obstruction to View Regulations
 - d. Article XIII Off-Street Parking and Access Control Regulations
 - e. Article XV Sign Regulations
5. In the R 2 Zone, Bed & Breakfast Inns (B&B) shall be permitted as a conditional use subject to the requirements of Section 9.13 and approval by the Board of Adjustments. Once approval of the Board of Adjustments has been secured, the following additional standards must be met prior to the issuance of a Certificate of Occupancy for a B & B:
- a. The principal residential structure shall not be physically altered to accommodate a Bed & Breakfast Inn.
 - b. Any principal residential structure to be utilized as a Bed and Breakfast Inn shall meet minimum lot size requirements as established by the zone district in which the structure is located.
 - c. The owner/operator of the Bed and Breakfast must live within the principal structure housing the Bed and Breakfast Inn.
 - d. Bed and Breakfast Inns shall be operated within the principal residential structure, and shall be a secondary use to the primary private residential use. Accessory structures are not permitted to be used for Bed and Breakfast operations.
 - e. The total floor area dedicated to the Bed and Breakfast shall not exceed thirty percent of the total gross usable floor area of the principal residential structure.
 - f. Each room of a Bed and Breakfast Inn unit shall not be less than one hundred square feet in area.
 - g. Each Bed and Breakfast Inn shall be permitted one class one (1) non illuminated identification sign, to be erected as a wall sign, located in the immediate vicinity of the main entrance and shall not exceed two (2) square feet in dimension.
 - h. One off street parking space shall be provided for each Bed and Breakfast Unit and shall comply with Article 13 of the Newport Zoning Code.
 - i. No person or persons shall be employed directly or indirectly in a Bed and Breakfast Inn other than the owner/operator or resident family member, or a part time cleaning person working less than six hours per week.
 - j. Breakfast may be provided, however, no food preparation shall be permitted in the Bed and Breakfast Inn units.

- k. All Bed and Breakfast guests shall register in advance. No drop in guests are permitted.
- l. The maximum length of a continuous stay for a guest is one week, and shall not exceed twenty one days within a calendar year.
- m. The owner/operator of the Bed and Breakfast shall obtain a business license through the City of Newport.

E. AREA AND HEIGHT REQUIREMENTS: residential zones shall be subject to the area and height requirements as shown in the following table:

TABLE 5 AREA AND HEIGHT REQUIREMENTS: RESIDENTIAL ZONES								
	<i>Unit Type</i>	<i>Units Per Acre</i>	<i>Min. Lot Area</i>	<i>Min. Lot Width</i>	<i>Min. Front Yard Depth</i>	<i>Min. Side Yard Width</i>	<i>Min. Rear Yard</i>	<i>Max Bldg. Height</i>
			SQF	LF	LF	LF	LF	LF
DISTRICT S:								
R-1	SF	6	5,000	50	30	10	25	35
R-2H	SF	17	2,500	25	10	3***	25	35
R-2	SF	17	2,500**	25	10	3***	25	35
	TF	10	4,000	50	10	3***	25	35
R-3	SF	21	2,000**	25	10	3***	25	35
	TF	12	3,500	40	10	3***	25	35
R-4	TF	15	2,000	40	10	3	25	35
	MF	10	20,000	100	40	15	30	40
R-4 (CCO)	MF	*	*	*	*	*	*	*
R-5	MF	20	43,560	150	40	15	30	****

SQF Square feet

LF Linear Feet

SF Single Family

TF Two Family

MF Multi Family

* Subject to Development Plan Review

** Except the minimum lot area shall be 4,000 square feet for the adaptive reuse of existing non-residential structures in the R-2 zone and 3,500 square feet R-3 zone.

*** This side yard requirement applies to any one side thus allowing a zero lot line on the other side.

**** The maximum building height in the R-5 district is 6 stories.

F. OTHER DEVELOPMENT CONTROLS:

1. All residential districts shall be governed by the following additional development controls:

- a. Off street parking and loading shall be provided in accordance with Articles XIII and XIV of this Ordinance.
- b. No outdoor storage of any material shall be permitted in this zone except within enclosed metal containers.
- c. Garage, private as defined in Article VII.
- d. No lighting shall be permitted which would glare from this zone onto any street, road, highway, and deeded right of way or into any adjacent property.
- e. Where any yard of any conditional use permitted in residential zones abut property in a single-family zone, the conditional use shall be subjected to the screening and transitional yard requirements of Section 9.16.

2. The R-2 and R-3 Residential districts shall be governed by the following additional development controls:

- a. A development plan, as regulated by Section 9.19 of this Ordinance, shall be required for any use permitted in this zone, except when development is proposed under the Planned Unit Development (PUD) regulations as regulated by Section 9.23 of this Ordinance.
- b. Article XIII Parking, most specifically the requirements for off street parking as defined in Section 13.2, paragraph C.

(Am. Ord. O-04-05, passed 5-17-2004; Am. Ord. O-2016-024, passed 12-12-2016)

SECTION 10.3 COMMERCIAL DISTRICT

A. DISTRICT DEFINED:

1. Central Business District Zone - the CBD Zone is designed to permit the development of a complete range of retail sales and personal, professional, and business services required to meet the demands of a fully developed community. In general, to achieve maximum flexibility of permitted land use, the CBD Zone makes possible a highly varied grouping of retail and business functions.

2. Neighborhood Commercial Zone - the NC Zone is created to provide for local or neighborhood business uses that will be compatible with adjoining residential areas. The NC Zone is designed to provide for commercial, office, public and semi public structures, which are to be typically much less commercial in appearance and architecturally more harmonious with residential structures. This zone can serve as a buffer between residential areas and general business districts (such as the CBD or Shopping Center Areas) where a gradual transition from existing residential use to general business use is occurring or should occur.

3. Shopping Center Zone - the SC Zone is designed to permit the development of a complete range of retail sales and personal, professional, and business services required to meet the demands of the community and larger region. This zone provides for commercial uses that are compatible with the existing commercial character of outlying highways and arterials.

4. Professional Office Zone - the PO Zone is designed to allow a "mix" of business and professional office establishments with existing dwellings along major thoroughfares that are undergoing a transition in use from residential to higher intensity commercial and office uses. The purpose of this Zone is to allow for extensive rehabilitation of residential structures for business and professional office purposes.

5. Riverfront District - the RFD is designed to capitalize on proximity of the Ohio River. A mixture of office and residential high-rise buildings along with supporting retail establishments are to be encouraged in this district. This district encompasses the area between 3rd Street and the riverfront.

6. Central Business District Fringe - the CBDF District is designed as a transitional zone that encourages appropriate conversion and adaptive reuse of existing residential structures for mixed uses; including office, residential and retail. This district encompasses the 11th Street corridor and neighborhoods on the perimeter of the existing CBD.

7. Commercial District Zone - The C-1 Zone is designed to compliment the Neighborhood Commercial Zone. It is designed to permit the development of various mixed uses; including office, residential and retail.

B. PERMITTED USES:

The permitted uses for each zone are shown in the following Table. Uses listed for the six commercial zones shall be according to the common meaning of the term or according to definitions given in this Ordinance. Uses not specifically listed or defined herein shall not be permitted.

**TABLE 6
PERMITTED AND CONDITIONAL USES: COMMERCIAL ZONES**

NOTE: P signifies permitted use; X signifies not permitted; C signifies conditional uses.

DISTRICTS							
C-1	CBD	NC	SC	PO	RFD	CBDF	1. RETAIL CONVENIENCE GOODS AND/OR SERVICE ESTABLISHMENTS
P	P	P	P	X	P	P	A. Art supplies, Candy Store, Drug Store, Hardware Store and/or Garden Supplies, Florist, Grocery, Retail Bakery Sales or other food Store, Lunch Counter or Soda Fountain, Delicatessen or Restaurant (excluding Drive-Ins) and Bookstore.
P	P	X	X	P	P	P	B. Outdoor dining areas as an accessory to Indoor dining and excluding use of the right-of-way.
X	X	X	P	X	X	X	C. Drive-In Restaurants or Premises used for the sale, dispensing or serving of food or beverages outdoors or where customers may serve themselves or carry out and consume the food refreshments or beverages on the premises.
X	X	C	P	X	X	X	D. Gasoline Service Station, Tire and Auto Service Center, limited to indoor service bays only.
X	X	C	C	X	X	X	E. Convenience Stores with Retail Gasoline Sales.
							2. PERSONAL SERVICE ESTABLISHMENTS
P	P	P	P	P	P	P	A. Barber Shops, Beauty Shops, Funeral Homes not permitted in C-1), Dry Cleaning and Laundry Pick-up Stations, Radio and Television Service, Photography Studio and Travel Bureau.
X	X	X	P	X	X	X	B. Pawn Shop, Rent to Own Stores
							3. GOVERNMENT SERVICES
P	P	P	P	P	P	P	A.. Library, Post Office, Police

							and Fire Stations, City and County Courthouses and related services.
C-1	CBD	NC	SC	PO	RFD	CBDF	PROFESSIONAL SERVICE ESTABLISHMENTS
P	P	P	P	P	P	P	A. Advertising Agencies, Accountants, Architects, Engineers, Interior Decorators, Planners, and Surveyors; Banks and other Financial Institutions; Employment Agencies; and related offices or services including Blueprinting/Photocopying and Job Printing.
							5. MEDICAL AND HEALTH CARE SERVICES
P	P	P	P	P	P	P	A. Physicians, Dentists, Eye Care Professionals and related offices.
P	X	P	P	P	C	P	B. Laboratories including medical, dental and optical.
P	P	P	P	P	P	P	C. Fitness Centers such as Health Clinics and Health Spas.
							6. SHOPPING OR DURABLE GOODS ESTABLISHMENTS including
P	P	X	P	X	P	P	A. Antiques, Wearing Apparel and Accessories Stores, Shoe Stores, Dry Goods, Fabric Shop, Stationer, Gift Shop, Photographic Supplies, and Hobby Shop; Records, and Musical Instrument Stores; Sporting Goods and Bicycle Stores; (Pet Shop, including Grooming Shop and Obedience School Music, Paint, Wallpaper and Floor Coverings not permitted in RFD); and Variety Stores.
							B. Department Stores, Discount Stores (not permitted in C-1), Major Appliances, and Furniture; Glass, China and Pottery Store; Jewelry Store; Leather Goods and Luggage Store; and, Office Appliances and Supplies.
C-1	CBD	NC	SC	PO	RFD	CBDF	7. INDOOR COMMERCIAL AMUSEMENT RECREATION AND ENTERTAINMENT
X	P	X	P	X	X	C	A. Theater, Bowling Alley, Billiard Parlor, Gymnasium, Tennis Facilities, Roller or Ice Skating Rink, Night Club, Lodge.
							B. (Cinemas, Aquariums, Cybertainment, and Virtual Reality Facilities, Theater, Temporary Festivals, Bowling Alleys, Billiard Parlor, Ice Skating Rink, Nightclub permitted in RFD CCO District only).
X	P	X	P	X	X	X	C. Tavern
X	P	X	X	X	X	X	D. Charitable gaming, with approved license, permitted in CCO District only.
X	C	X	X	X	P	P	E. Micro-brewery, micro-distillery
X	X	P	P	X	X	C	8. AUTOMOBILE AND BOAT PART SALES
X	X	P	P	X	X	X	9. AUTOMOBILE SERVICE

X	X	C	P	X	X	X	10. AUTOMOBILE SALES NEW AND USED, AND REPAIR IN A TOTALLY ENCLOSED BUILDING AND NO LESS THAN ONE-HALF (1/2) ACRE OF LAND
X	X	X	P	X	X	C	11. CAR WASH COMPLETELY INDOORS, SELF-SERVICE CARWASH, AUTOMATIC OR SEMI-AUTOMATIC CAR WASH
P	P	P	P	P	P	P	12. COMMERCIAL PARKING LOTS AND STRUCTURES
X	C	X	X	P	X	C	13. NEWSPAPER OFFICE INCLUDING PRINTING
X	P	X	P	X	X	P	14. PACKAGE LIQUOR AND WINE STORE
P	P	P	P	X	X	P	15. TEMPORARY SEASONAL USES SUCH AS CHRISTMAS TREE SALES, NURSERY PLANTS, FRUIT STAND COMPLETELY UNDER SHELTER
P	P	P	X	P	X	P	16. VETERINARIANS
C-1	CBD	NC	SC	PO	RFD	CBDF	
P	P	X	P	P	X	P	17. SCHOOLS TEACHING PHOTOGRAPHY, DANCE MUSIC, ART, LANGUAGE, TRADES INCLUDING BARBER AND BEAUTICIAN SCHOOLS
X	P	X	P	P	X	P	18. MASS TRANSIT TERMINALS INCLUDING BUS AND TAXI SERVICES
X	P	X	X	X	X	X	18A. AUCTIONS
P	C	X	X	C	P	X	19. HOTEL/MOTEL
X	P	X	X	X	X	X	20. ADULT ENTERTAINMENT
X	X	X	X	C	C	X	21. RADIO STATION AND TV STATION
X	X	X	X	X	X	C	22. BOAT SALES NEW AND USED, SERVICE AND REPAIR IN A TOTALLY ENCLOSED BUILDING
P	C	X	X	X	P	P	23. RESIDENTIAL - IN CBDF ONLY SINGLE AND TWO FAMILY USES ARE PERMITTED. ANY MULTI-FAMILY UNITS IN THE CBDF MUST BE APPROVED BY THE BOA. TWO FAMILY UNITS REQUIRE 4,000 SQUARE FEET LOT SIZE MINIMUM, MULTI-FAMILY IS PERMITTED IN CBDF (CCO) AND SUBJECT TO DEVELOPMENT PLAN REVIEW.
P	X	X	P	X	X	P	24. TOOL AND EQUIPMENT RENTAL AND/OR SALES, EXCEPT THAT IN THE CBD ZONE THERE MUST BE A MINIMUM LOT SIZE OF ONE-HALF (1/2) ACRE
P	X	X	X	X	X	X	25. PUBLIC/PAROCIAL SCHOOL FACILITIES
P	P	P	P	P	P	P	26. LIBRARIES
X	X	X	P	X	X	X	27. FOOD CARTS
X	P	X	X	X	X	X	28. FREE STANDING WALK-UP ATM'S WITHOUT A

							PRIMARY BUILDING
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C. ACCESSORY USES:

1. The following accessory uses are permitted in all commercial zones:

- Customary accessory buildings and uses.
- Fences and walls as regulated by Article XII of this Ordinance.
- Signs as regulated by Article XV of this Ordinance.

2. In the Professional Office Zone, uses as listed below, included within and entered from within any building permitted in this zone as a convenience to the occupants thereof, and their customers, providing such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays for any accessory uses shall be visible from outside the building:

- Barber Shop
- Beauty Shop
- News and confectionery stands.
- A prescription pharmacy
- Coffee shop or refreshment stand

3. Within a master planned development where the principle use is office, development will allow residential and commercial uses to occupy up to 20% each of the total square footage. Any desire to increase on this percentage will require a conditional use permit from the Board of Adjustments. The office use would still be required to maintain the principle use in the development.

D. CONDITIONAL USES:

1. In all commercial zones, no building or occupancy permit shall be issued for any conditional use nor any customary accessory building or uses shall be permitted until and unless the location of said use shall have been applied for and approved by the Board of Adjustment as set forth in Section 9.13 of this Ordinance.

E. AREA AND HEIGHT REQUIREMENTS: commercial zones shall be subject to the area and height requirements as shown in the following table:

TABLE 7 AREA AND HEIGHT REQUIREMENTS: COMMERCIAL ZONES							
	Min. Lot Area	Min. Lot Width	Min. Front Yard	Min. Side Yard Width	Min. Rear Yard Depth	Max Bldg. Height	Min. Bldg. Site Area
	SQF	LF	LF	LF	LF		
DISTRICTS:							
CBD	5,000*	50	15**	***	NA	NA	NA
NC	5,000*	50	25	***	15	40	NA
SC	NA	NA	50	50	50	40	5 acres
RFD	****	****	****	****	****	****	NA
PO	****	****	****	****	****	****	NA
CBDF	2,500	25	15	***	NA	40	NA
CBD, CBDF (CCO)	****	****	****	****	****	****	****

* In the case of these zones, more than one (1) principal building as defined herein, may be permitted on one lot.

** Minimum Front Yard Depth for the CBD Zone shall be fifteen (15) feet for buildings five (5) stories or less in height. One (1) additional foot of front yard depth shall be required for each additional story over five (5). Where the front yard depth varies for existing buildings in the CBD Zone, new buildings shall maintain the average depth represented within 200 feet on either side of the property on which a new building is to be constructed.

*** Minimum Side Yard Width shall be as follows in the CBD and NC Zone:

a. For buildings five (5) stories or less in height no restrictions except when adjacent to a street, road, highway or other right of way, where the required width shall be the same as required for a minimum front yard depth in this zone. When buildings abut each other, firewall construction, as required by the Newport Building Code, shall be required. In the event a side yard is provided it shall never be less than fifteen (15) feet wide.

b. For buildings six (6) stories in height a fifteen (15) foot minimum side yard width shall be required.

c. For buildings containing more than six (6) stories, a fifteen (15) foot minimum side yard width plus one (1) additional foot for each additional floor over six (6) shall be required.

LF Linear Foot

SF Square Foot

**** Subject to Development Plan approval

F. OTHER DEVELOPMENT CONTROLS:

1. All Commercial Zones shall be governed by the following additional development controls:

- Off street parking and loading shall be provided in accordance with Articles XIII and XIV of this Ordinance.
- (1) No outdoor storage of any material shall be permitted in this zone except within enclosed metal containers.

- (b) (2) Dumpsters are to be totally enclosed in board or brick fencing.
- c. No lighting shall be permitted which would glare from this zone onto any street, road, highway, and deeded right of way or into any adjacent property.
- d. Where any yard of any permitted use in Commercial Zones abut property in a residential zone, a minimum yard requirement of ten (10) feet for each side and/or rear yard which abuts said zone shall be provided, and screened in accordance with the requirements of Section 9.16 of this Ordinance.
- e. A development plan, as regulated by Section 9.19 of this Ordinance, shall be required for any use permitted in this zone, except when development is proposed under the Planned Unit Development (PUD) regulations as regulated by Section 9.23 of this Ordinance.
- f. No use producing objectionable noise, odors, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
- g. All business activities permitted within this District shall be conducted within a completely enclosed building with the exception of off street parking and loading and/or unloading areas, temporary seasonal businesses, automotive sales lots, tools and equipment rental and sales, and boat sales, with the exception of outside dining areas.
2. Where permitted, an adult bookstore, adult entertainment establishment and an adult theater are subject to the following locational requirements in commercial zones:
- a. No adult bookstore, adult entertainment establishment, or adult theater, as defined herein, shall be located within three hundred (300) feet of any other such use, or located within three hundred (300) feet of the boundaries of any residential zone, or three hundred (300) feet from existing residential areas defined for the purpose of this Section as a block frontage developed with fifty percent (50%) or more residential uses; or located within one thousand (1,000) feet of any permanent structure used as a church or place of religious worship, or located within two thousand (2,000) feet of any public or parochial school.
- b. All existing operational adult businesses, which do not presently meet any or all of the locational requirements, shall be deemed a non conforming use.
- c. Such restriction as to linear distance requirements as between or among adult bookstores, adult entertainment establishments, or adult theaters, shall apply to compartmentalized buildings or structures, the same as if such compartmentalized buildings or structures were a one (1) building structure. Such restriction, as related to distance requirements, shall be enforced in any and all directions, including but not limited to, north, south, east, west, and where vertical or horizontal distance measurements are required, such restrictions shall likewise apply.
- d. The measurement of distance as provided for herein shall be measured in a straight line from and to the nearest points of the respective properties as referred to herein.
- e. No portion of any wall of any building which separates an adult bookstore, adult entertainment establishment or adult theater from any other business activity shall be remodeled or altered in any manner to permit access to or viewing of adult bookstores, adult entertainment establishments or adult theaters in an adjoining or adjacent building.
- (Am. Ord. O-2010-013, passed 7-12-2010; Am. Ord. O-2010-014, passed 7-12-2010; Am. Ord. O-2011-001, passed 2-28-2011; Am. Ord. O-2011-015, passed 8-29-2011; Am. Ord. O-2013-010, passed 8-19-2013)

SECTION 10.4 INDUSTRIAL DISTRICTS

A. DISTRICT DEFINED:

1. **INDUSTRIAL ONE ZONE** - the purpose of the I 1 Zone is to encourage the establishment of manufacturing and wholesale businesses, which are clean, quiet and free of hazardous or objectionable elements. Operation of these establishments should take place entirely within an enclosed structure and should generate little industrial traffic. No storage of raw materials, manufactured products, or any other materials is permitted in the non screened open space around the building. This zone is usually located adjacent to residential areas and may serve as a buffer between heavier industrial districts and business or residential districts.
2. **INDUSTRIAL TWO ZONE** - the purpose of the I 2 Zone is to encourage the establishment of heavy industry including manufacturing, production and packaging operations as well as associated storage of raw materials and finished products. This zone will generate heavy industrial traffic and should be separated from residential or business districts by means of a buffer area such as the I 1 Zone.

B. PERMITTED USES:

The permitted uses for each zone are shown in the following Table. Uses listed for the two industrial zones shall be according to the common meaning of the term or according to definitions given in this Ordinance. Uses not specifically listed or defined herein shall not be permitted.

TABLE 8 PERMITTED USES: INDUSTRIAL ZONES (P signifies Permitted; X signifies not permitted)		
I 1	I 2	PERMITTED USES:
P	P	1. ANY INDUSTRIAL MANUFACTURING, PROCESSING, REFINING, FABRICATIONS, ASSEMBLING, WHOLESALING, WAREHOUSING, CLEANING, TESTING OR REPAIRING OF GOODS, MATERIALS OR PRODUCTS including the following (but excluding (1) storage, utilization or manufacture of materials intended for detonation; and, retail sales or services, business offices or discount establishments dealing directly with consumers):
X	P	a. Acetylene, Butane and Bottled gas; Petroleum Refining and Products including Plastics; and Related Bulk Storage Stations.
X	P	b. Asphalt, Brick, Cement, Concrete, Gypsum, Plaster of Paris, Sand and Gravel, Stone (including monument works employing power driven tools) Tile or Terra Cotta.
P	P	c. Candy and Confectionery Products; Cigars and Cigarettes; Flour Mills, Food and Beverage Products including the rendering or refining of Fats and Oils; Vinegar and Yeast.
X	P	d. Chemical, Paint and Fertilizer Products including Ammonia, Bleach, Bluening, Calcimine, Chlorine, Corrosive Acid or Alkali, Dyes, Lacquer, Lime,

		Shellac, Turpentine, and Varnish.
P	P	e. Cosmetic, Pharmaceuticals, and Toiletries.
P	P	f. Electric Appliances, Electrical and Non-Electrical Machinery, Equipment and Supplies; Fountain and Beverage Dispensing Equipment; Television Sets, Phonographs, and Household Appliances.
P	P	g. Furniture and Office Equipment
P	P	h. Musical Instruments, Toys, Novelties, Jewelry, Rubber or Metal Stamps; Instruments of Professional, Scientific, Photographic and Optical Use.
X	P	i. Iron, Steel, Aluminum Foundry or Forge Works and Heavyweight Casting, Rolling Mills.
X	P	j. Lumber mills and Storage Yards, Paper, paperboard and Pulp Mills.
X	P	k. Metal, Metal Finishing and Metal Products including the use of Blast Furnaces and Forges
X	P	l. Products from the following previously processed materials: Paper, Glass, Cellophane, Leather, Feathers, Fur, Precious or Semiprecious Metals, Hair, Horn, Shell, Tin Steel, Wood, Plastics Rubber, Bone, Cork, Felt, Fibers, Yarn, Wool, Tobacco.
X	P	m. Animated and/or illuminated Billboards and Other Commercial Advertising Structures.
X	X	2. Mining.
X	P	3. Laundries and dry cleaning Plants involving Laundering and Dry Cleaning of Articles delivered to the premises by Commercial Vehicles including Clothes, Carpets and Rugs.
P	P	4. Bottling and Canning Works including Brewing and Distilling of Liquors.
X	P	5. Building Materials Yards, Contractors Offices and Accessory Storage Yards including storage of General Construction Equipment and Vehicles.
X	P	6. Bus Line Shops and Storage, Carting, Express, Hauling or Storage Yards, Freight Terminals, Trucking Terminals
X	P	7. Forge Plants, Foundries, and Plating Plants.
P	P	8. Governmentally owned and/or operated City, County or State garages.
P	P	9. Industrial Engineering Consultant Offices and Laboratories, Offices and Other Facilities for Research, both Basic and Applied, conducted by or for an Industrial Organization or Concern, whether Public or Private.
P	P	10. Publishing and distribution of books, newspapers and other Printed Materials Including Printing, Engraving, and related Reproduction processes.
X	P	11. Processing of junk, waste, discarded or salvaged Materials, machinery or equipment, Including Automobiles wrecking or dismantling.
X	P	12. Railroad facilities including passengers and freight terminals, marshaling yards, maintenance shops and roundhouse.
P	P	13. Schools for industrial or business training.
X	P	14. Coal, Coke, or Wood Yards.
P	P	15. Reprocessing, refurbishing and repair of automotive and truck parts and accessories, including the retreading of tires in a completely enclosed facility. Retail sales of new and/or refurbished Automotive and truck parts, accessories and tires is permitted as an accessory use as is the related servicing of vehicles on site in the enclosed facility.
X	P	16. Adult Entertainment.

C. ACCESSORY USES:

1. The following accessory uses are permitted in all industrial zones:

- Customary accessory buildings and uses including operations required to maintain or support any use permitted in this district on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops.
- Fences and walls as regulated by Article XII of this Ordinance.
- Signs as regulated by Article XV of this Ordinance.
- Uses as listed below, included within and entered from within any use permitted in this zone as a convenience to the occupants thereof, and their customers, providing such accessory uses shall not exceed ten percent (10%) of the gross floor area of the permitted uses in the building and no exterior advertising displays for any accessory uses shall be visible from outside the building:
 - Cafeterias
 - Coffee shops or refreshment stands
 - Soda or dairy bars.

D. AREA AND HEIGHT REQUIREMENTS: Industrial Zones shall be subject to the area and height requirements as shown in the following table:

TABLE 9

AREA AND HEIGHT REQUIREMENTS: INDUSTRIAL ZONES						
	<i>Min. Lot Area</i>	<i>Min. Lot Width</i>	<i>Min. Front Yard Depth</i>	<i>Min. Side Yard Depth</i>	<i>Min. Rear Yard Depth</i>	<i>Max Bldg. Height</i>
	SQF	LF	LF	LF	LF	LF
DISTRICTS:						
I-1	17,000	125	25	15	20	35
I-2	17,000	125	25	15	20	40

E. OTHER DEVELOPMENT CONTROLS:

1. All Industrial Zones shall be governed by the following additional development controls:
 - a. Off street parking and loading shall be provided in accordance with Articles XIII and XIV of this Ordinance.
 - b. No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right of way or into any adjacent property.
 - c. Where any yard of any permitted use in industrial zones abuts property in a residential zone, a minimum yard requirement of seventy five (75) feet for each side and/or rear yard, which abuts, said zone shall be provided, and screened in accordance with the requirements of Section 9.16.
 - d. A development plan, as regulated by Section 9.19 of this Ordinance, shall be required for any use permitted in this zone, except when development is proposed under the Planned Unit Development (PUD) regulations as regulated by Section 9.23 of this Ordinance.
 - e. Any adult entertainment establishment must be screened by shrubs and wrought iron fencing. Adjoining any I-1 zone shall require a 10-foot buffer and screen.
 - f. Any adult entertainment establishment shall be limited to one building mounted sign (interior illuminated) at a 1:1 square foot ratio to building frontage. This sign is to not exceed the roofline of the building.

SECTION 10.5 MONUMENT CENTER ZONE (MC)

District Defined:

The Monument Center Zone (MC) is created to allow a mixture of uses that capitalize on the uniqueness of the Millennium Monument. Uses within this zone are to be compatible with the primary function of the monument as a tourist attraction. This zone will allow for a variety of commercial, educational, restaurant and business uses.

Permitted Uses:

Restaurant
 Retail Sales
 Theater
 Exhibition/Educational Center
 Business Office
 Entertainment/Indoor Commercial Amusement
 Radio/TV transmission station
 Commercial Parking Lots

Accessory Uses:

Customary accessory buildings and uses.
 Fences and walls as regulated by Article XII of the Zoning Ordinance.
 Signs as regulated by Article XV of the Zoning Ordinance.

Area and Height Requirements:

All area and height requirements are subject to Development Plan approval as regulated by Section 9.19 in the Zoning Ordinance.

Other Development Controls:

- a. Off-street parking and loading shall be provided in accordance with Articles XIII and XIV of the Zoning Ordinance.
 - b. No outdoor storage of any material shall be permitted in this zone except within enclosed metal containers.
 - c. No lighting shall be permitted which would glare from this zone onto any street, road, highway, deeded right-of-way or into any adjacent property.
- (Am. Ord. O-2016-024, passed 12-12-2016)

**ARTICLE XI
 PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES**

SECTION 11.0 APPLICATION OF PERFORMANCE STANDARDS:

After the effective date of this Ordinance any use established or changed to, and any building, structure or tract of land developed, constructed or used for, any permitted or permissible principal or accessory use in the I 1 or I 2 zones shall comply with all of the performance standards herein set forth in the district involved. If any existing use of any building or other structure is extended, enlarged, or reconstructed, the performance standards for the district involved shall apply with respect to such extended, enlarged or reconstructed portion or portions of such use of any building or other structure.

SECTION 11.1 EFFECTS OF CONCURRENT OPERATIONS:

The sum total of the effects of concurrent operations on two or more lots should not be greater or more offensive to the senses than the standards contained herein. Compliance with the provision of these performance standards by single or mutual changes in operational levels, scheduling of operations, and other adjustments is permitted.

A. **BUILDING ENCLOSURES:** Every use permitted in the I 1 Industrial District shall be operated in its entirety within a completely enclosed building. In the I 2 Industrial District, permitted uses shall be operated either within a completely enclosed building or within an area enclosed on all sides by a solid noncombustible fence or wall, as regulated by Article XII of this Ordinance; provided further, that no goods, material or objects shall be stacked higher than the fence or wall.

B. **LANDSCAPING:** In the I 1 or I 2 Districts, all required yards shall either be open landscaped and grassed areas to be left in a natural state if acceptable to the Planning and Zoning Commission. If said area is to be landscaped, it shall be landscaped attractively with lawn, trees, shrubs, etc. according to the initial submitted plans which were first approved of for the development of such tract as a permitted use.

In areas to be used for off street parking, the parking arrangement and surfacing must likewise have been approved of for the development of such tract as permitted use. Any landscaped areas shall be properly maintained thereafter in a slightly and well kept condition. Parking areas shall likewise be maintained in good condition. Any areas left in a natural state shall be properly maintained in a well-kept condition.

C. **NOISE:** For the purpose of measuring the intensity and frequencies of a sound, a sound level meter and an octave band analyzer shall be employed that conforms to specifications published by the American Standards Association (American Standard South Level Meter for Measurement of Noise and other Sounds Z24.3 1944, and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10 1953, American Standards Association, Inc., New York, New York, or the latest edition of such standards, shall be used.) In the enforcement of the regulation, noises produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted decibel level. In the I 1 District the sound pressure of noise radiated from any activity shall not exceed the value given in Table 10 of this section, in any octave band frequency at any point on or beyond any lot line.

In the I 1 District the sound pressure of noise radiated from any activity shall not exceed the values given in Table 11 of this section in any octave band frequency at any point on or beyond any lot line. If the I 1 District adjoins a residential district the maximum sound pressure level at any point on the district boundary shall be reduced by six (6) decibels from the maximum listed in Table 10.

In the I 2 District the sound pressure of noise radiated from any activity shall not exceed the value given in Table 11 of this section in any octave band frequency at any point on or beyond the nearest district boundary. If an I 2 District adjoins a residential district, the maximum sound pressure level starting point at the district boundary shall be reduced by six (6) decibels from the maximum listed in Table 11 of this section.

In the I 1, and I 2 Districts industrial noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency, or shrillness.

D. **ODOROUS MATTER:** No emission of odorous matter shall be allowed in excess of ambient air quality standards as set forth by regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.

**TABLE 10
MAXIMUM PERMISSIBLE SOUND PRESSURE LEVEL AT SPECIFIED POINTS OF
MEASUREMENT FOR NOISE RADIATED CONTINUOUSLY FROM A FACILITY**

OCTAVE BAND (CYCLES PER SECOND)	SOUND PRESSURE LEVEL (DECIBEL*)	
20	75	69
75	150	54
150	300	47
300	600	41
600	1,200	37
1,200	2,400	34
2,400	4,800	31
4,800	10,000	28
10,000	20,000	26)
20,000	30,000	25)
30,000	40,000	24)
40,000	50,000	23)

To avoid possible
interference with
animal experiments

* According to the following formula Sound Pressure Level in Decibels equals 10 Log where P2 equals 0.002 dynes/cm2 [P1 , P2]

**TABLE 11
MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS**

OCTAVE BAND (CYCLES PER SECOND)	SOUND PRESSURE LEVEL (DECIBEL*)	
20	75	69
75	150	54
150	300	47
300	600	41
600	1,200	37

1,200	2,400	34	
2,400	4,800	31	
4,800	10,000	28	
10,000	20,000	26)	To avoid possible
20,000	30,000	25)	interference with
30,000	40,000	24)	animal experiments
40,000	50,000	23)	

* According to the following formula Sound Pressure Level in Decibels equals 10 Log where P2 equals 0.0002 dynes/cm² [P1 , P2]

E. HUMIDITY, HEAT, OR GLARE: In the I 1 district, any activity producing humidity, in the form of steam or moist air or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat, or glare is not perceptible at any lot line. In the I 2 district, any activity producing heat or glare shall be carried on in such a manner that the steam, humidity, heat, or glare is not perceptible at or beyond any residential or commercial district boundary. Detailed plans for the elimination of humidity, heat, or glare may be required before the issuance of a building permit.

F. EXTERIOR LIGHTING: Any lights used for exterior illumination, except for overhead street lighting and warning, or traffic signals shall direct light away from the adjoining zones in the I 1 and I 2 districts.

G. VIBRATION: Vibrations shall be measured at the lot line in the I 1 districts and at the nearest district boundary in the I 2 district. No vibration is permitted which is discernible to the human sense of feeling for three minutes or more duration in any one hour. Vibration shall not produce, at any time, an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin, No. 442, "Seismic Effects of Quarry Blasting", on any structure. The methods and equations of said Bulletin No. 442, or any subsequent revision or amendment thereto, shall be used to compute all values for the enforcement of these provisions. Detailed plans for the elimination of vibrations may be required before the issuance of any building permit.

H. EMISSIONS AND OPEN BURNING: No emission of particulate matter, sulfur compound, carbon monoxide, hydrocarbon, nitrogen oxide, and open burning shall be allowed in excess of regulations adopted by the Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution, Cincinnati Air Quality Region.

I. RADIATION: In the I 1, and I 2 zones, all sources of ionizing radiation shall be registered or licensed by the Kentucky State Department of Health and operated in accordance with their regulations.

J. ELECTRICAL RADIATION: In the I 1, and I 2 zones, any electrical radiation shall not adversely effect, at any point on or beyond the lot line, any operation or equipment other than those of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling or operations is permitted.

K. STORAGE: In the I 1 zone no material, products, or supplies shall be stored or permitted to remain on any part of the property outside the buildings constructed thereon. In the I 2 zone, storage of materials, supplies, and products on the property outside the building constructed thereon is permitted at the rear of the property providing that the storage of materials, supplies, and products are within an area enclosed on all sides by a solid noncombustible fence or wall at least six (6) feet in height; provided further that no goods, materials, or objects shall be stacked higher than the fence or wall.

L. FIRE AND EXPLOSIVE HAZARDS: In the I 2 district only storage, utilization, or manufacture of solid materials or products including free burning and intense burning is permitted providing that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system. In the I 2 district only, the storage, utilization, or manufacture of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted, provided that storage, handling, and use shall be in accordance with Standards of American Insurance Association for Storage, Handling, and Use of Flammable Liquids, "American Insurance Association" Pamphlet No. 30, June, 1959 or any subsequent revision or amendment thereto.

M. WASTE: Within the I 1 and I 2 districts, no waste material or refuse shall be dumped upon or permitted to remain upon any part of the part of the property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in such manner so as to comply with the standards of the appropriate authority. All plans for waste disposal facilities shall be required before the issuance of any building permit.

ARTICLE XII FENCES, WALLS, AND OBSTRUCTIONS TO VIEW REGULATIONS

SECTION 12.0 VISION CLEARANCE AT CORNERS AND RAILROAD CROSSINGS:

No fence, wall, hedge, or other structure or other obstruction above a height of thirty six (36) inches as measured above the curb level shall be erected, placed, maintained or continued in any zone within that triangular portion of a corner lot formed by measuring ten (10) feet from the intersection of the rights of way line or two (2) streets or fifty (50) feet of the right of way line of a street intersection with a railroad right of way line and joining these points with a straight line; except in the CBD zone which shall be controlled by the minimum setback requirements. No type of tree or planting or other obstruction shall be planted, placed, maintained or continued in such a manner which would obstruct the vision clearance at corners and railroad crossings.

SECTION 12.1 CLASSIFICATION OF FENCES AND WALLS:

The following shall be the classification of fences and walls for this Ordinance:

1. Masonry walls
2. Ornamental iron (eighty percent (80%) open).
3. Woven wire (eighty percent (80%) open).
4. Wood or other materials (more than fifty percent (50%) open).
5. Solid fences wood or other materials (less than fifty percent (50%) open).
6. Hedges

7. Barbed wire or sharp, pointed fences.
8. Earthen or concrete walls intended to contain or redirect flooding waters.

SECTION 12.2 CONSERVATION ZONE:

Fences and/or walls within the conservation zone shall conform to the following requirements:

1. Section 12.0 except that in front yards class 2 or 3 fences may be erected up to maximum height of sixty (60) inches.
2. Side and rear yard, class 1, 2, 3, 4, 5, 6, or 7 fences and/or walls may be erected up to a maximum height of ninety six (96) inches.
3. Class 8 walls shall be permitted but shall conform to requirements of the Corps of Engineers and/or City engineer, whichever is applicable.

SECTION 12.3 RESIDENTIAL ZONES:

Fences and/or walls within the R-1, R-2, R-3, R-4, and R-5 Zones shall conform to the following requirements:

1. SECTION 12.0 and the requirements set forth below for residential uses only.
 - a. The use of Class 7 and/or Class 8 fences shall be prohibited on any residential property.
 - b. The use of Class 1, Class 3 and/or Class 5 fences shall be prohibited in any required front yard.
 - c. No fence located in a required front yard shall exceed thirty-six (36) inches in height.
 - d. No fence located in a required side or rear yard shall exceed eighty-four (84) inches in height.
 - e. For the purposes of these regulations, a fence located along any portion of a residential property abutting a public right-of-way (except along an "alley") shall not be greater than thirty-six (36) inches in height.
2. For all nonresidential uses permitted or conditional uses permitted herein:
 - a. SECTION 12.0, except that in front yards, Class 2 or 3 fences may be erected up to a maximum height of seventy-two (72) inches.
 - b. Side or rear yards, Class 1, 2, 3, 4, 5, 6, or 7 fences or walls may be erected up to a maximum height of ninety six (96) inches.

SECTION 12.4 COMMERCIAL ZONES:

Fences and/or walls within the CBD, NC, RFD, CBDF, SC, and PO Zones, including those permitted with all conditionally permitted uses in these Zones, shall conform to the following requirements:

- A. SECTION 12.0, except that in front yards of Zones SC, and PO, Class 2 or 3 fences may be erected up to a maximum height of seventy two (72) inches. In the CBD Zone, no fences or walls shall be permitted in the front yard.
- B. Side and rear yard, class 1, 2, 3, 4, 5, 6, or 7, fences and/or walls, up to a height of seventy two (72) inches; except that Section 12.0 shall prevail at all intersections.

SECTION 12.5 INDUSTRIAL ZONES:

Fences and/or walls within the I 1, and I 2 Zones shall conform to the following requirements:

- A. Section 12.0, except that in front yards Class 2 or 3 fences, may be permitted up to a height of ninety six (96) inches.
- B. Class 1, 2, 3, 4, 5, 6, or 7 fences and/or walls, up to a height of ninety six (96) inches; however, such maximum height may be required to be increased by the Zoning Administrator.

SECTION 12.6 MEASUREMENT OF ALL FENCE AND/OR WALL HEIGHTS AND/OR LOCATIONS:

- A. All fences and/or wall heights shall be measured along the fence or wall locations.
- B. All locations for distance measurements shall be measured from lot lines.

SECTION 12.7 HEIGHT OF ANY BARBED WIRE OR SHARP POINTED FENCES:

- A. In zones, where permitted, barbed wire or sharp pointed fences shall not be less than a height of seventy two (72) inches.
- B. Barbed wire or sharp pointed fences of any type shall not be permitted in any residential zone and where any zone abuts a residential zone said barbed wire shall be placed at least ninety-six (96) inches above the ground.

SECTION 12.8 HEIGHT OF FENCES ATOP RETAINING WALLS:

A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the higher finished grade. The fence portion must be of the class and height permitted within this Ordinance for the applicable zone. Said measurement shall be made at the location of the fence and retaining wall.

SECTION 12.9 FENCE CONSTRUCTION:

- A. Construction of a fence shall occur with the supports facing inward on the property for which the permit is granted.

ARTICLE XIII OFF STREET PARKING AND ACCESS CONTROL REGULATIONS

SECTION 13.0 GENERAL REQUIREMENTS:

In all zones, off street parking facilities for the storage or parking of motor vehicles for use of occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this ordinance, shall be provided and maintained as herein prescribed. However, where a building permit has been issued prior to the date of adoption of this ordinance and provided that construction has been begun within ninety (90) consecutive calendar days of such effective date, off street parking facilities in the amounts required by this ordinance shall prevail.

Computation of Parking Spaces In determining the number of parking spaces required, if such spaces result in fractional parts thereof, the number of said spaces required shall be construed to be the next highest whole number.

Additional Parking Spaces to be Provided Whenever the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, change of use, or other units of measurement specified herein, additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing parking space is inadequate to serve such increase in intensity of use.

SECTION 13.1 DISTRICT PARKING REQUIREMENTS:**A. Residential Zones:**

1. **Single-Family Residential Zone (R-1) and (R-2H); and Single-Family and Two-Family Residential Zones (R-2 and R-3):** Off street parking may be permitted in driveways in the front, side, and rear yards of permitted uses in the R-1 and R-3 Zones and in the rear yard in the R-2 Zone, provided all requirements of this ordinance are met. No off street parking area, located in the front yard in a single family residential zone, may exceed 400 square feet (two parking spaces) except, however, the zoning administrator may allow additional off street parking spaces to be located thereon provided that the additional parking spaces will not cause the ratio of unpaved area to paved area (parking and driveway areas) in the front yard to be less than 3:1. Where single or two family dwellings, which are permitted herein and are existing at the time of adoption of this Ordinance, occupy a lot of such size that off street parking could not be provided on the same lot or zoning lot as the use being served, said off street parking may be permitted to locate within a distance not to exceed three hundred (300) feet from said dwelling or dwellings upon approval of the Zoning Administrator. In addition, said off street parking lot shall be located in the same zone as the use being served and constructed in accordance with SECTION 13.0 of this Ordinance. Off street parking as required for conditional uses permitted in the Residential (R) Zones may be permitted to locate on another site other than the same site as the conditionally permitted use is located, when approved by the Board of Adjustment, provided that said parking is located within reasonable walking distance to the conditionally permitted use and available at all times, exclusively for the use being served.

2. Multi Family Residential Zones:

a. **R-2 and R-3 Districts:** No off-street parking may be permitted in front yards in this zone except for drive-ways connecting a rear parking area. However, only the Board of Adjustments may, in its discretion, permit the ratio of unpaved area to paved area (parking and drive-way area) to be less than a three to one ratio.

b. **R-4 and R-5:** Off street parking may be permitted in side or rear yards of permitted uses in these zones, provided that off street parking facilities shall be set back a minimum of ten (10) feet from the rear lot line. Off street parking may be permitted in required front yard, only if approved according to an approved development plan.

Multi-family dwellings existing at the time of adoption of this Ordinance may supply off street parking within three hundred (300) feet from such lot or zoning lot served upon approval of the Planning and Zoning Commission, providing that such off street parking is located within the same zone as the establishment being served and that off street parking requirements of this Ordinance are complied with at all times. Further, the applicant must also show sufficient proof that such off street parking facilities would be impossible to provide the required off street parking space, as required herein, on the same lot or zoning lot or contiguous to the same lot or zoning lot as the building being served.

B. Special Development Zones (CO, PUD, and CCO) off street parking shall be located as designated on the approved development plan.

C. Commercial and Industrial Zones: (CBD, SC, NC, PO, CBDF, RFD, I-1 and I-2): All off street parking facilities shall be located on the same lot or zoning lot as the building served except for the following:

Off street parking facilities for uses permitted in the CBD, RFD, PO, MC and CBDF Zone may be located on another zoning lot than the building or use being served is located providing such off street parking requirements of this Ordinance are complied with at all times. Off street parking shall be provided within six hundred and fifty (650) feet of the building or use for which the parking is provided. Any use permitted in an industrial zone may supply off street parking on the same lot or zoning lot, or within three hundred (300) feet from such lot or zoning lot served upon approval of the Planning and Zoning Commission, providing that such off street parking is located within the same zone as the establishment being served and that off street parking requirements of this Ordinance are complied with at all times. Further, the applicant must also show sufficient proof that such off street parking space would be impossible to provide, as required herein, on the same lot or zoning lot or contiguous to the same lot or zoning lot as the building being served.

D. Other Requirements

1. **Collective Parking Provision** Collective off street parking facilities shall not be less than would otherwise be individually required.

2. **Driveways Not Computed As Part of Required Parking Area** Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area, except in the case of single family residential zones, where access driveways may be used for parking.

3. **Off Street Parking Space To Be Used For Parking only** any vehicle parking space shall be used for parking only. Any other use of such space, including repair work or servicing of any kind other than in an emergency, or the requirement of any payment for the use of such space, shall be deemed to constitute a separate commercial use in violation of the provisions of this ordinance.

4. **No Building To Be Erected in Off Street Parking Space** No building of any kind shall be erected in any off street lot except a parking garage containing parking spaces equal to the requirements set forth in this section of the ordinance or a shelter house booth for parking attendant providing the number of spaces

required are not reduced.

5. **Parking Plan Approval Required** Plans for all parking lot facilities, including parking garages, shall be submitted to the zoning administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the City. Such plans shall show the number of spaces and arrangements of parking aisles, location of access points onto adjacent streets, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross sections of pavement, including base and sub base; (in accordance with Appendix A attached hereto and made part of this Ordinance by reference) and proposed grade of parking lot, storm drainage facilities, location and type of lighting facilities and such other information or plans as the circumstances may warrant. Where such parking plans include provisions for access points to adjacent streets, then said plan shall also be prepared in accordance with the requirements of Section 13.3.

(Am. Ord. O-04-05, passed 5-17-2004)

SECTION 13.2 DESIGN AND LAYOUT OF OFF STREET PARKING AREAS:

A. **Size of Off Street Parking Spaces** for the purposes of this ordinance, one (1) parking space shall be a minimum of nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles. Such parking space shall have a vertical clearance of at least seven (7) feet.

B. **Width of Access Drives** all off street parking areas shall be laid out with the following minimum aisle or access drive widths:

1. Ninety (90) degree (perpendicular) parking Twenty-five (25) feet (either one or two way circulation).
2. Sixty (60) degree (angle) parking Fifteen (15) feet (one-way circulation only).
3. Forty five (45) degree (angle) parking Twelve (12) feet (one-way circulation only).
4. Thirty (30) degree (angle) parking Twelve (12) feet (one-way circulation only).
5. Zero (0) degree (parallel) parking Twelve (12) feet (one-way circulation).

When any combination of these types of parking is used (facing the same aisle) the most restricted aisle or access drive width requirements shall prevail). In addition, a two-foot overhang may be permitted on the external sides of a parking area. If the width of the parking space is increased (over 9 feet), the drive aisle width can be decreased proportionally (2 foot width in drive aisle per 1 foot increase in space width) except that a drive aisle for 2 way traffic may not be decreased below 20 feet in width and a drive aisle for 1 way traffic may not be decreased below 11 feet in width.

C. **Access to Off Street Parking Spaces** Each required parking space shall be connected with a deeded public right of way by means of aisles or access drives as required by SECTION 13.2(B). The parking area shall be so designed as to ensure that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages and/or storage areas. All driveways are to be paved or asphalt.

D. **Off Street Parking Areas in Multi Family, Commercial, or Industrial Zones** All such parking areas shall have a protective wall and/or bumper blocks around the perimeter of said parking area and shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic. All parking shall be effectively screened on each side adjoining or fronting on any property situated in a zone permitting single family residential development, by a solid wall, fence, or densely planted compact hedge as regulated by SECTION 9.16 of this ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sign distance clearance at entrances and exits.

E. **Lighting** any lighting used to illuminate off street parking areas shall not glare upon any right of way or adjacent property.

F. **Paving of New Off Street Parking Area** All new off street parking areas shall be paved with asphalt concrete or concrete and shall be designed and constructed in accordance with Appendix A attached hereto and made part of this Ordinance by reference, or other suitable surface approved by the Zoning Administrator.

SECTION 13.3 SPECIFIC OFF STREET PARKING REQUIREMENTS:

The amount of off street parking space required for uses, building, or additions and changes in intensity of uses thereto shall be determined according to the following requirements, and the space, so required, shall be stated in the application for a zoning and building permit and shall be reserved for such use. Where more than one use is located in the same building, each individual use shall be in accordance with the off street parking requirements of this section of the ordinance.

**TABLE 12
SPECIFIC OFF-STREET PARKING REQUIREMENTS**

	TYPE OF USES	REQUIRED NUMBER OF PARKING SPACES
A.	Airport, railroad passenger stations and bus terminals	One (1) parking space per each four (4) seating accommodations for waiting passengers, plus one (1) parking space per each two (2) employees on shift of largest employment.
B.	Automobile service stations	One (1) space for each gas pump island, plus two (2) spaces for each working day, plus one (1) parking space for each employee on largest shift.
C.	Beauty parlors and/or barber shops	Two (2) parking spaces per barber and/or beauty shop operator.
D.	Bowling establishments	Five (5) parking spaces for each lane: plus one (1) space for each two (2) employees on shift of largest employment.
E.	Car Wash	One (1) parking space for each employee, plus one (1) space per owner or manager and reservoir space equal to five (5) times the capacity of laundry.
F.	City and/or county government	One (1) parking space for each two hundred (200) square offices feet of gross floor area.
G.	Commercial or trade schools	One (1) parking space for each two (2) students based

		on design capacity of school, plus one (1) parking space for each employee.
H.	Convalescent homes, nursing homes, rest homes, homes for the aged, and orphanages	One (1) parking space for two (2) beds, plus one (1) space for each two (2) employees or staff members, including nurses, on the shift of largest employment plus one (1) parking space per doctor.
I.	Dance halls, pool and billiard halls and exhibition halls without fixed seats	One (1) parking space for each one hundred (100) square feet of floor area used for dancing or assembly, or one (1) space for each four (4) persons based on design capacity, whichever is greater, plus one (1) space for each two (2) employees on shift of largest employment.
J.	Dormitories, Fraternities, Sorority houses and other group housing	One (1) parking space per each two residents, plus one (1) parking space per owner or operator; plus one (1) parking space per employee; or one (1) parking space for each two seats for membership meetings, whichever is greater, based on design capacity.
K.	Dwellings:	One Family two (2) parking spaces. Two Family four (4) parking spaces, with individual access for each dwelling unit, or a joint access in which no parking is permitted on the access drive.
L.	Dwellings: Multi-Family	<ol style="list-style-type: none"> 1. One (1) parking space for every one-bedroom dwelling unit and two (2) spaces for every dwelling unit with two (2) or more bedrooms. 2. For multi-family units designed for occupancy by the elderly only one (1) space per each two (2) dwelling units.
M.	Establishments for sale and consumption on the premises of alcoholic beverages, food and refreshments, or for take home food services (including night clubs)	<p>One (1) parking space per each:</p> <ol style="list-style-type: none"> 1. 30 square feet of gross floor dining area in a drive-in restaurant; 2. 140 square feet of gross dining area in a carry-out restaurant. 3. 40 square feet of gross floor dining area or two (2) seating accommodations, based on maximum seating capacity, whichever is greater, in a combination restaurant; 4. Two (2) seating accommodations, based on maximum seating capacity, in a sit-down restaurant. 5. Plus one (1) parking space per each two (2) employees on shift of largest employment in any type restaurant.
N.	Fire stations	One (1) parking space per each person on duty on largest shift
O.	Hospitals	One (1) parking space for each two (2) beds, plus one (1) space for each two (2) employees, or staff members, including nurses, on the shift of largest employment, plus one (1) parking space per doctor.
P.	Laundromats	One (1) parking space for each two (2) washing machines, plus one (1) parking space for each employee.
Q.	Libraries, museums and and art galleries	One (1) parking space per each four (4) seats in rooms for public assembly or one (1) parking space for each fifty (50) square feet of gross floor area for use by the public, whichever is greater, plus one (1) space for each two employees on shift of largest employment.
R.	Medical offices and/or clinics	Five (5) parking spaces per each practitioner plus one (1) parking space per each two (2) employees or one (1) parking space per each two hundred (200) square feet of gross floor area in the building, plus one (1) parking space for each two (2) employees, whichever is greater.
S.	Mortuaries or funeral homes	One (1) parking space for each four (4) seats in the main chapel or public assembly area based on maximum seating capacity, plus one (1) parking space for each funeral vehicle and employee, or in the case of no fixed seats, one (1) parking space for each fifty (50) square feet of floor area in on parlors or service rooms, or one (1) parking space for each four (4) persons, based on designed capacity of building, whichever is greater, plus one (1) parking space for each funeral vehicle and employee.
T.	Offices for professional, business and	One (1) parking space for each two hundred fifty (250)

	financial, real estate, and business purposes other than medical offices and/or clinics	square feet of gross floor area.
U.	Post Offices	One (1) parking space for each four hundred (400) square feet of gross floor area, plus one (1) parking space for each two (2) employees on the shift of largest employment; plus one (1) space for each vehicle operating from the premises.
V.	Boarding houses and lodge halls	One (1) parking space for each guest sleeping room, or one (1) parking space per each four (4) fixed seats in the main assembly area, whichever is greater, plus one (1) parking space for each two (2) employees, or in the case of no fixed seats, one (1) parking space for each two (2) employees.
W.	Retail and personal service stores	4 spaces per 1,000 square feet of gross leasable area.
X.	Schools - Elementary, junior high and equivalent, private or parochial schools	One (1) parking space per teacher and administrator or one (1) space for each four (4) seats in the auditorium, stadium, and other places of assembly of facilities available to the public based on maximum seating capacity, whichever is greater.
Y.	Schools - Senior high, trade and vocational, colleges and universities and equivalent private or parochial schools	Six (6) spaces per each room to be used for class instruction or administrative offices or one (1) space for each four (4) seats in the auditorium, stadium, and other places of assembly or facilities available to the public based on maximum seating capacity, whichever is greater.
Z.	Shopping Centers	5.5 parking spaces per 1,000 feet of gross leasable area.
AA.	Stadium and sports arenas	One (1) parking space for each four (4) seats, based on a maximum seating capacity, plus one (1) additional space for each two (2) employees on shift of largest employment
BB.	Theaters, auditoriums, churches and places of assembly with fixed seats	One (1) parking space for each four (4) seats, based on a maximum seating capacity, plus one (1) additional space for each two (2) employees on shift of largest employment.
CC.	Theaters, auditoriums, churches and places of assembly without fixed seats	One (1) parking space per four (4) people based on designed capacity of building, or one (1) parking space per one hundred (100) square feet in main auditorium or assembly area, whichever is greater, plus one (1) parking space for each two (2) employees on shift of largest employment.
DD.	Tourist homes, cabins, motels or hotels, excluding areas used for meeting rooms and places of assembly	One (1) parking space for each sleeping room or suite, plus one (1) space per each two (2) employees on shift of largest employment.
EE.	Industrial establishments, including manufacturing research and testing laboratories	Two (2) parking spaces for each three (3) employees the total number of parking spaces being the total number of employees on any two (2) consecutive shifts having the largest number of employees, based on designed capacity, plus one (1) parking space for each company vehicle operating from the premises.
FF.	Wholesale establishments, warehouses and storage buildings	One (1) parking space for each employee, plus one (1) parking space for each company vehicle operating from the premises.
GG.	All other Uses Not Listed Herein	Based on study to be prepared by owner or operator, number of spaces to be required determined according to: <ul style="list-style-type: none"> (a) Type of use and estimated number of total trips generated during peak conditions (inbound and outbound); and (b) Estimated parking duration per vehicle trip (turnover rates). Based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required, plus one (1) space to be provided for each two (2) employees based on shift of maximum employment.

SECTION 13.4 ACCESS CONTROL REGULATIONS

In order to promote greater safety of passage between highway and land; improve the convenience and ease of movement of travelers on the highway; permit reasonable speeds and economy of travel; and increase and protect the capacity of the highway, the location and design of access points shall be in accordance with the following access control requirements. These requirements shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan:

A. Coordination of Access Points: Major access points on opposite side of the arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the Planning and Zoning Commission or Zoning Administrator, whichever is applicable. In addition, in order to maximize the efficient utilization of access points, and make possible the coordination of access with and between adjacent properties developed (present or future) for similar uses. As a condition of approval for construction, use, or reuse of any access road, the zoning administrator may require that unobstructed and unencumbered access, in accordance with the provisions of this ordinance, be provided from any such access point to adjacent properties.

B. Spacing Restrictions for Signalized Access Points: Access points which will warrant signalization shall be spaced a minimum distance of one quarter mile apart. The exact location of the signal light shall be determined by a traffic engineering study, which shall at least account for the following variables:

1. Speed;
2. Traffic signal phasing;
3. Traffic signal cycle length;
4. Roadway geometrics; and
5. Accident experience.

Provision for all turning movements to maintain the design capacity of the roadway shall be required.

C. Sight Distance: The location of access points shall comply with safe sight distance requirements as provided in Table 13. The centerline of all access points shall intersect as nearly at a ninety (90) degree angle as possible but in no case shall the angle of intersection be less than seventy five (75) degrees or greater than one hundred five (105) degrees, unless approved by the Planning and Zoning Commission or Zoning Administrator, whichever is applicable, due to certain exceptional conditions.

D. Location of Unsignalized Access Points:

1. Unsignalized access points shall be spaced a minimum distance of two hundred (200) feet apart. Turning restriction may be required.
2. Two access points per 400 feet of street frontage will be permitted; however, if the spacing requirements for a direct access point onto an arterial street (as provided in D, 1, above) cannot be met, then an access point may be located on a frontage road or on an intersection local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them should be controlled as follows:
 - (a) Access points onto local streets, intersections, and arterial street shall be spaced a minimum distance of fifty (50) feet, measured from point of curb return to point of curb return, from arterial street.
 - (b) In areas zoned to permit commercial, industrial, or multi family residential use, access points from adjacent properties onto frontage roads, shall be no less than fifty (50) feet measured from point of curb return to point of curb return from intersections of the frontage road with local or collector streets.
 - (c) If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one access point shall be provided. However, all such access points shall be considered a temporary right of way and may be terminated, reduced, limited to certain turning movements or caused to be relocated by the zoning administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road or an intersection, local street, or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as "temporary", such designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

E. Width of Access Points:

1. In residential zones, no access point width shall be less than nine (9) feet, nor more than twenty (20) feet. In all other zones, access points shall not be less than twelve (12) feet, nor more than forty eight (48) feet in width. The width shall be as measured from the point of curb return to point of curb return (or edge of pavement if no curb exists) excluding the curb radius.
2. The zoning administrator may modify (enlarge or reduce) the width to provide for a more efficient and safe channelization and/or flow of traffic.

F. Exceptions to Access Points Requirements: Where situations develop that may require special treatment, the requirements as provided in Section 13.3, A G, may be varied by the Planning and Zoning Commission provided that a traffic engineering report is prepared by a qualified traffic engineer, establishing that the special treatment will have no adverse effects on the roadway safety and capacity.

G. Access Point Problem Areas: If after special study, it is determined that the type of use or activity proposed would have an adverse effect on the safety and capacity of the adjacent roadway, the access point spacing requirements as contained in this section, may have to be increased in order to adequately solve the traffic movement.

H. Approval of Access Points and Curb Cuts Required: As regulated by SECTION 9.19 of this Ordinance, Plans for all access points and modifications thereto, (including plans to use existing access points and where a change of use for any tract of land would generate more traffic than the previous use) shall be submitted to the zoning administrator at a scale not less than 1 inch = 100 feet. Such plans shall show the location of all access points, and access points within 600 feet in either direction. The proposed access point shall include typical cross sections of pavement, the base and subbase, proposed grade and storm drainage and such other information or plans as the circumstances may warrant. If such access points are being located in conjunction with off street parking and/or loading and unloading facilities, then said plans shall also include parking and off street loading and/or unloading plans, in accordance with SECTIONS 13.0 and 14.0 of this Ordinance.

I. Approval of Access Points Along State Maintained Routes by Kentucky Department of Transportation: A copy of the plan for all access points to be constructed along a state maintained route shall also be submitted to the Kentucky Department of Transportation for review and approval during the same time as plans are submitted to the zoning administrator, as provided for in Section 13.4. No access point plans shall be approved or permits issued for construction by the zoning administrator, until said access point plans have been approved by the Kentucky Department of Transportation.

SECTION 13.5 VARIANCES

The foregoing subsections of Article XIII shall be subject to the same provisions regarding variances there from as provided by all the provisions regarding Sections 18.6 and 18.7 of this Ordinance.

TABLE 13

SIGHT DISTANCE FOR VEHICLES EXITING FROM ACCESS POINTS ONTO ADJACENT ROADS
D = DISTANCE ALONG MAJOR ROAD FROM ACCESS POINT TO ALLOW VEHICLE TO ENTER SAFELY
(DISTANCES IN FEET)

VEH TYPE	20 MPH				30 MPH				40 MPH				50 MPH				60 MPH			
	2 Lane		4 or 6 Lane		2 Lane		4 or 6 Lane		2 Lane		4 or 6 Lane		2 Lane		4 or 6 Lane		2 Lane		4 or 6 Lane	
	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR	DL	DR
Pass Car	150	130	130	130	360	320	220	260	530	440	380	440	740	700	620	700	950	1,050	950	1,050
Truck	300	200	200	200	500	400	400	400	850	850	850	508	1,600	1,600	1,600	1,600	2,500	2,500	2,500	2,500

TABLE 14
LEFT TURN DISTANCE FOR VEHICLES ENTERING ACCESS POINTS
S = SIGHT DISTANCE ALONG MAJOR ROUTE FOR VEHICLE TO SAFELY TURN LEFT INTO ACCESS POINT
(DISTANCES IN FEET)

VEH TYPE	20 MPH			30 MPH			40 MPH			50 MPH			60 MPH		
	2 Lane	4 Lane	6 Lane	2 Lane	4 Lane	6 Lane	2 Lane	4 Lane	6 Lane	2 Lane	4 Lane	6 Lane	2 Lane	4 Lane	6 Lane
	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane	Lane
Pass Car	150	160	170	230	250	270	370	390	420	520	550	580	700	740	780
Truck	260	260	300	400	440	480	570	620	670	810	880	950	1,000	1,100	1,200

Values are for urban conditions. On rural streets, distances are to be increased by 10 Percent to allow for longer drive reaction time. The sight distances apply when street grades are zero to 3.0 percent (either up or down). When an upgrade is steeper than 3.0 percent, adjustments are to be made to compensate for the longer time required to reach the speed of highway traffic. The time is less than shown when the highway is descending. Adjustment factors below apply to grades only in that portion of the road between the access points and the downstream point at which a vehicle emerging from the access points has been able to accelerate to within ten miles per hour of the route speed. When the street, in the section to be used for acceleration after leaving the access point, ascends at 3 to 4 percent, then sight distances in the direction of approaching ascending traffic are to be increased by a factor of 4.1. When the access point ascends at 5 to 6 percent, sight distance should be increased by a factor of 1.7. When the road in the section to be used for acceleration after leaving the access point descends at 3 to 4 percent, sight distance in the direction of approaching descending highway traffic should be reduced by a factor of 0.6. If the road descends at 5 to 6 percent, sight distance should be reduced by a factor of 0.5. When the criteria for sight distances to the right cannot be met, the need can be eliminated by prohibiting left turns by exiting vehicles.

APPENDIX A SURFACING SPECIFICATIONS

1. ASPHALT -CONCRETE PAVEMENT:

(a) General Design Requirements:

(1) Asphalt concrete pavements shall consist of specified thickness of asphalt concrete surface course and a base course, or courses, all constructed on prepared subgrade. Pavement thickness required shall be determined from Table 15 of this Ordinance for the appropriate subgrade soil and traffic use.

(2) Paved areas shall be so designed and constructed that water will quickly drain from the surface and be conducted away from the area through approved systems. For large paved areas, approved catch basins and storm drainage systems shall be provided.

(3) When the pavement includes a granular base, and the pavement is not constructed over granular subgrade, perimeter subsurface drainage shall be provided to prevent lateral flow of water into the base course and to provide for removal of seepage water than may enter the base.

(4) Successive layers of the pavement shall be offset from the edge of the underlying layer a distance equal to the course thickness of the lower layer except when abutting existing construction. When the asphalt layers of the pavement abuts a building foundation, barrier curb or similar vertical surface, the abutting surface shall be heavily painted with liquid asphalt prior to construction of the asphalt course.

(b) Construction Materials and Procedures:

(1) Subsurface Drainage

(a) Drainage tile, six (6) inch perforated tile or other approved types of similar capacity, where required by the Planning and Zoning Commission, or its duly authorized representative, shall be bedded at a depth of not less than twelve (12) inches below the bottom elevation of the granular base course. Aggregate for bedding and backfill shall all pass a 3/8 inch sieve and have not more than five (5) percent passing a No. 200 sieve. The slope of subsurface drains shall be not less than six (6) inches per one hundred (100) feet. All such drains shall be properly connected to outlet drains or to open ditches.

TABLE 15
THICKNESS REQUIREMENTS OF SURFACE AND BASE COURSES
FOR AUTOMOBILE AND TRUCK PARKING FACILITY PAVEMENTS*

TYPE OF VEHICLE	SOIL CLASSIFICATION	THICKNESS OF SURFACE AND BASE	INCHES
	Asphalt Base Type I or II	Granular Base Type III or IV	
Automobile Parking	ABC	1-41-51-6	2-42-52-6
			3-43-63-8

Facilities

Truck Parking
Facilities

ABC

1-61-71-8

2-62-72-8

4-64-84-10

* Thickness of surface and base is shown for each soil classification and street classification. The first number indicates the minimum thickness of asphalt concrete, which may be comprised of Asphalt Concrete Surface Course, Type I or II, if the surface course does not exceed two (2) inches. When surface thickness is more than two (2) inches, Asphalt Concrete Base I or II, as specified in Table 15, may be used for all but the upper one (1) inch wearing course, which must be Asphalt Concrete Surface Course I, or II, as specified in Table 15. The second figure indicates the thickness of base course of the type indicated. For example, 1 4 indicates one (1) inch surface and four (4) inches base.

** Soils are classified into three (3) groups indicating their relative effectiveness as subgrade.

- A. Granular soils that drain well; sand, gravel or combination of sand and gravel.
- B. Silty clays, or lean clays, that retain considerable strength when wet. These are average subgrade soils.
- C. Heavy clay soils that lose most of their strength when wet.

(1) All catch basins, in pavement with granular base, shall be constructed with weep holes, at subbase level, to provide for drainage of seepage water from the granular layer. Weep holes shall be constructed of pipe, or other material, having an opening not less than 1.5 inches clear opening. Suitable provision shall be made to prevent clogging of the opening. Three or more weep holes shall be suitably located around the perimeter of each catch basin.

(2) Base courses shall consist of one or more of the following materials. Construction procedures shall conform to the requirements applicable to the base course selected.

(a) Asphalt Concrete Base Course Materials and construction shall conform to the current requirements of the Kentucky Department of Highways' Specifications for Asphalt Concrete Base Course, Class I except as noted herein:

(aa) Composition requirements of the mixture shall conform to the gradation limits for Asphalt Concrete Base Course I or II set forth in Table 4 of this Ordinance. Asphalt content used shall fall within the range shown and shall be approved by the Planning and Zoning Commission, or its duly authorized representative.

(bb) Uncrushed gravel and natural sand may be used as aggregate provided all other requirements of specification are complied with.

(b) Asphalt Treated Base Course Materials and construction procedures shall conform to the following requirements:

(aa) Aggregates may be crushed or uncrushed material conforming to the gradation requirements, shown in Table 4 of this Ordinance for either Base II or Base IV. The aggregate shall be composed of hard, durable particles and shall contain no more than a total of five (5) percent deleterious substances. In addition, the Sand Equivalent of the aggregate shall not be less than twenty five (25) when tested in accordance with AASHTO Designation: T 176 56. The contractor shall set a single gradation and asphalt content, which in the specified limits, as the Job Mix Formula to be used on the project. This formula must be approved by the Planning and Zoning Commission, or its duly authorized representative, prior to use. Gradation and asphalt content may vary during construction within the following tolerances:

- % Passing 3/4" or 3/8" Sieve ± 10%
- % Passing No. 8 Sieve ± 8%
- % Passing No. 50 Sieve ± 6%
- % Passing No. 100 Sieve ± 3%
- % Asphalt ± .4%

(bb) Other construction requirements shall conform to those specified by the Kentucky Department of Highways for Asphalt Concrete except that a gradation unit on the plant shall not be required provided the aggregate can be controlled by other means to produce a consistently uniform gradation.

(c) Crushed Stone Base Course:

(aa) Crushed stone base course shall conform to the all-current requirements of the Kentucky Department for Dense Graded Aggregate Base Course.

(3) Asphalt Concrete Surface Course Materials and construction shall conform to the current requirements of the Kentucky Department of Highways for Asphalt Concrete Surface, Class I. Surface course mixture composition may conform to requirements of either Surface Course I or II as set forth in Table 4 of this Ordinance. Minimum course thickness shall be as stated in Table 4 of this Ordinance.

(4) Asphalt Prime and Tack Coat:

(a) Asphalt prime shall conform to the Kentucky Department of Highways' requirements for Cutback Asphalt Emulsion Primer Type L. Prime shall be applied to the surface of granular base course at a rate of 0.20 to 0.40 gallons per square yard.

(b) Tack coat shall consist of SS 1h, meeting the current requirements of the Kentucky Department of Highways. It shall, when directed by the Planning and Zoning Commission, or its duly authorized representative, be diluted with equal part of water. Application equipment and procedure shall conform to the requirements of the Kentucky Department of Highways for Tack Coats. Tack coat shall be applied, upon direction of the Planning and Zoning Commission, or its duly authorized representative, to the surface of asphalt courses that have become dusty or dry from traffic use before the subsequent course could be placed or in other circumstances when the Planning and Zoning Commission, or its duly authorized representative so directs.

2. Soil Cement Base Course (with Asphalt Concrete Surface):

a. Description - soil cement base course shall consist of soil and cement uniformly mixed, moistened, compacted, finished and cured in accordance with the specifications herein, and it shall conform to the lines, grades, thicknesses and typical cross section shown on the plans.

b. Materials:

(1) Cement - cement shall comply with the latest specifications for cement, AASHTO M85, M134, M151; or ASTM C150, C175, C205; or Federal SS C 192b, SS C 218 for the type specified. One (1) cubic foot of portland cement shall be considered to weigh 94 lb. or 1 bbl. of cement shall be considered to weigh 376 lb.

(2) Water - water shall be free from substances deleterious to the hardening of the soil cement.

(3) Soil - soil shall consist of the material existing in the area to be paved, of approved selected soil, or of a combination of these materials proportioned as directed. The soil shall not contain gravel or stone retained on a three (3) inch sieve.

c. Construction Methods:

(1) Preparation - unsuitable soil or material shall be removed and replaced with acceptable soil. The subgrade shall be firm so as to support, without displacement, the construction equipment and the compaction hereinafter specified. Soft or yielding subgrade shall be corrected and made stable, before construction proceeds.

(2) Pulverization - the soil shall be so pulverized that, at the completion of moist mixing, 100 percent by dry weight passes a one inch (1") sieve, and a minimum of 80 percent passes a No. 4 sieve, exclusive of gravel or stone retained on these sieves.

(3) Cement Application, Mixing and Spreading - mixing of the soil, cement, and water shall be accomplished either by the mixed in place or the central plant mixed method. No cement or soil cement mixture shall be spread when the soil or subgrade is frozen or when the air temperature is less than 40 degrees F. in the shade. The percentage of moisture in the soil, at the time of cement application, shall not exceed the quantity that will permit a uniform and intimate mixture of soil and cement during mixing operations, and it shall not exceed the specified optimum moisture content for the soil cement mixture. Any soil and cement mixture that has not been compacted and finished shall not remain undisturbed for more than 30 minutes. The soil cement base course shall have a thickness of not less than six (6) inches.

(4) Compaction - at the start of compaction, the percentage of moisture in the mixture and in unpulverized soil lumps, based on oven dry weights, shall not be below or more than two (2) percentage points above the specified optimum moisture content, and shall be less than that quantity which will cause the soil cement mixture to become unstable during compaction and finishing. The specified optimum moisture content and density shall be determined in the field by a moisture density test, AASHTO T 34 57 or ASTM D558 57, on representative samples of soil cement mixture obtained from the area being processed. Prior to the beginning of compaction, the mixture shall be in a loose condition for its full depth. The loose mixture then shall be uniformly compacted to the specified density within two (2) hours. During compaction operations, shaping may be required to obtain uniform compaction and required grade and cross section.

(5) Finishing - after compaction the surface of the soil cement shall be shaped to the required lines, grades and cross section. If necessary, during shaping operations, the surface of the base shall be lightly scarified to remove any tire imprints or smooth surfaces left by equipment. The resulting surface shall then be compacted to the specified density. Rolling shall be supplemented by broom dragging if required. The moisture content of the surface material must be maintained at not less than its specified optimum moisture content during finishing operations. Surface compaction and finishing shall be done in such a manner as to produce, in not longer than two (2) hours, a smooth, dense surface free of compaction plans, cracks, ridges or loose material. Any portion of the soil cement that has a density of five (5) lb. or more below that specified shall be corrected or replaced to meet these specifications.

(6) Curing - after the soil cement has been finished as specified herein, it shall be protected against drying for seven (7) days by the application of bituminous material. The curing material shall be applied as soon as possible but not later than twenty four (24) hours after the completion of finishing operations. The finished soil cement shall be kept continuously moist until the curing material is placed. The bituminous material specified shall be uniformly applied to the surface of the completed soil cement at the rate of approximately 0.2 gallon per square yard with approved heating and distributing equipment. At the time the bituminous material is applied the soil cement surface shall be dense, shall be free of all loose and extraneous material, and shall contain sufficient moisture to prevent penetration of the bituminous materials. Water shall be applied in sufficient quantity to fill the surface voids of the soil cement immediately before the bituminous curing material is applied. The curing material shall be maintained by the contractor during the seven (7) day protection period so that all of the soil cement will be covered effectively during this period. Sufficient protection from freezing shall be given the soil cement for seven (7) days after its construction and until it has hardened.

(7) Surfacing- asphaltic concrete shall be applied to the soil cement base course as regulated in SECTION 1.(b)(3) of this Appendix.

3. Concrete Parking Areas:

(a) General Requirements thickness of concrete parking shall be:

- (1) A minimum of six (6) inches for passenger cars and panel or pick up truck parking.
- (2) A minimum of six (6) inches for driveways accommodating light trucks and for light truck parking.
- (3) A minimum of seven (7) inches for heavier commercial or industrial needs.

(b) General Requirements concrete mix shall be:

- (1) Minimum cement content 4,000 psi air entrained concrete.
- (2) Maximum size of aggregate 1 1/2 inches.
- (3) Maximum water content 0.49 lb./1 lb. of cement (5.5 gal. bag).
- (4) Maximum slump Four (4) inches.
- (5) Air entrainment - Maximum Size Entrained

Aggregate (inches) Air (percent)

1 1/4	5 ± 1
3/4, 1	6 ± 1
3/8, 1/2	7 1/2 ± 1

(c) Construction Procedures:

(1) All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or tamped shall be removed and replaced with suitable material placed and compacted. The subgrade shall be thoroughly compacted with suitable equipment so as to have uniform density at moisture contents of not less than standard optimum (AASHTO T98).

- (2) Longitudinal joint spacing shall not exceed 12.5 feet.
- (3) Transverse joint spacings shall be at regular intervals of twenty (20) feet.
- (4) All transverse construction joints shall have a depth equal to one (1) fourth of the pavement thickness.
- (5) Form offsets at radius points shall be at least two (2) feet.

- (6) Pavement joints must be continuous through the curbs.
- (7) Where curbs are required they shall be cast integrally.

(8) The pavement shall be struck off, consolidated, and finished to the grades shown on the plans. All catch basins and manhole castings shall be boxed out and separated from the pavement with expansion joint material. All except premolded or sawed joints shall be edged with a tool having a maximum radius of 1/8 inches. Sawed and formed joints shall be cleaned and sealed according to Kentucky Department of Highways specifications for sealed joints before opening to traffic. Final surface texture shall be that obtained with a burlap drag. Curing shall be that obtained with a uniform coverage of white membrane curing compound or by seven (7) day coverage of white polyethylene of water proof paper. The completed pavement shall be closed to traffic for seven (7) days.

ARTICLE XIV OFF STREET LOADING AND/OR UNLOADING REGULATIONS

SECTION 14.0

For all buildings and structures erected, altered or extended, and all uses of land established as specified herein, after the effective date of this Ordinance, off street loading and/or unloading facilities shall be provided as required by the regulations herein. However, where a building permit has been issued prior to the date of the adoption of this Ordinance, and provided that construction has not begun within ninety (90) days of such effective date, off street loading and/or unloading facilities in the amounts required by this Ordinance shall prevail.

SECTION 14.1 OFF STREET LOADING AND/OR UNLOADING USE AND BULK REGULATIONS:

Off street loading and/or unloading facilities shall be provided in accordance with the following regulations:

A. **SPACES REQUIRED:** Every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehousing, department stores, wholesale stores, retail stores, market, hotel, hospital, laundry, dry cleaning, dairy, mortuary and other uses similarly involving the receipt of distribution of vehicles, materials, or merchandise and having up to five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) loading and/or unloading space. One (1) additional loading and/or unloading space shall be provided for every additional ten thousand (10,000) square feet, or fraction thereof, of gross floor area in the building. If sufficient proof can be shown that less than these requirements (only that part which has to do with over five thousand (5,000) square feet) will be satisfactory for the operation in question, the Zoning Administrator may reduce these requirements.

B. **SIZE OF OFF STREET LOADING AND/OR UNLOADING SPACE:** Each off street loading and/or unloading space shall be at least twelve (12) feet in width and at least sixty (60) feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least fourteen (14) feet; provided, however, that when it is demonstrated that a particular loading and/or unloading space will be used by shorter trucks, the Zoning Administrator may reduce the minimum length to thirty five (35) feet.

C. **LOCATION:** All required loading and/or unloading spaces shall be located on the same zoning lot as the use served. No loading and/or unloading space for vehicles over two ton capacity shall be closer than fifty (50) feet to any property in a residential zone unless completely enclosed by a fence, wall, or screen as regulated by Article XII of this Ordinance. No loading and/or unloading space shall be located in any required yards except as herein provided.

D. **ACCESS:** Each required off street loading and/or unloading space shall be designed with direct access via an approved access drive, to a deeded right of way which offers satisfactory ingress and egress for trucks. Access drives or aisles shall be laid out with a width of at least twelve (12) feet for one (1) way circulation and at least twenty four (24) feet for two (2) way circulation. Off street loading and/or unloading space shall be so designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the premises. Such off street loading and/or unloading space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, road, highway or deeded rights of way.

E. **ENLARGEMENT OF BUILDING:** The off street loading and/or unloading requirements, as listed in this article of the ordinance, shall apply at the time any building is enlarged or increased in capacity by adding floor area.

F. **DESIGN AND MAINTENANCE:**

1. **Surfacing:** All off street loading and unloading spaces shall be paved subject to the provisions in Appendix A - Surfacing Specifications of this Ordinance.

2. **Lighting:** Any lighting used to illuminate off street loading and/or unloading areas shall be directed away from property in any residential zone in such a way as not to create a nuisance.

3. **Space allocated to any off street loading and/or unloading space:** Shall not be used to satisfy the space requirements for any off street parking facilities or portion thereof.

G. **OFF STREET LOADING AND/OR UNLOADING PLAN APPROVAL REQUIRED:** Plans for all loading and/or unloading facilities shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this Ordinance and such other pertinent ordinances of the City of Newport. Such plans shall show the exact proposed layout of all loading and/or unloading areas, drives and accessories, entrances and exits, type of surface to be used, typical cross sections of pavement, base and subbase, location of lighting facilities, storm drainage facilities, proposed grade of off street loading or unloading area, and such other information or plans as the circumstances may warrant.

H. Any dumpsters in any zone within the municipality shall be screened from view by a wall or fence.

ARTICLE XV SIGN REGULATIONS

SECTION 15.0 SCOPE OF REGULATIONS:

The regulations set forth herein shall apply and govern signs in all zones except as otherwise specifically provided within this Ordinance.

SECTION 15.1 GENERAL RULES, REGULATIONS AND LIMITATIONS:

A. Notwithstanding any part of this Ordinance to the contrary, all business and identification signs, as defined in SECTION 7.0 of this Ordinance, shall be deemed accessory uses and all advertising signs as defined in SECTION 7.0 of this Ordinance, shall be deemed nonaccessory uses.

B. No sign shall be erected, maintained or continued unless it is in full compliance with the regulations for the zone in which it is located, all applicable provisions and regulations of this Ordinance or any other applicable laws, codes or ordinances of the City of Newport. The Zoning Administrator shall have the duty and authority to remove or cause to have removed any sign not in full compliance with all applicable provisions and regulations of this Ordinance or any other applicable laws, codes, or ordinances of the City of Newport when the owner or agent has failed to comply within the time specified by the Zoning Administrator to make said sign comply. Said owner or agent shall bear the full costs of such removal and shall be billed accordingly.

C. No signs shall be erected, maintained, replaced, relocated, repaired, or restored within a distance of six hundred sixty (660) feet of the right of way of any interstate highways, limited access highway, or turnpike except as provided for in KRS 177.830 177.890 and approved of by the Kentucky State Highway Department District Office No. 6, as amended.

D. NONCONFORMING SIGNS:

1. CONTINUANCE: Except as herein specified, any nonconforming sign may be continued in operation and maintained after the effective date of this ordinance; provided, however, that no such sign shall be changed in any manner that increases the noncompliance of such sign with the provisions of this ordinance for the zone in which such sign is located.

2. TERMINATION: Any one of the following acts or conditions shall terminate, immediately, the right to operate or maintain a nonconforming sign.

- a. Not meeting the requirements of Section 15.1 (B) of this Ordinance.
- b. Changing to a conforming sign.
- c. Abandonment. Abandonment shall be deemed to have occurred when the nonconforming activity ceases to operate and/or the premises are vacated so as to leave the property unoccupied for a period of at least three (3) consecutive calendar months.
- d. Nonoperative or nonuse of said nonconforming sign.
- e. Any sign, including all existing hardware, which meets the requirements of Section D.2. shall be removed within the time requirements as specified of Article XVI, Section 16.11.

3. ZONE CHANGE: The foregoing provisions shall also apply to signs, which become nonconforming due to zone changes which take place hereafter.

E. Notwithstanding any part of this Ordinance to the contrary, no sign constituting a nuisance, because of light, glare, focus, noise, animation, flashing, intensity of illumination as to unduly disturb the use of surrounding properties, as determined by the Zoning Administrator, or causing a traffic hazard, shall be erected, maintained, or continued in any zone.

F. Notwithstanding any part of this Ordinance to the contrary, no radio, phonograph, tape recorder, whistle, bell, gong, siren, or other sound or noise making or transmitting device or instrument shall be allowed, permitted, or continued in connection with any sign or may it be used separately for advertising purposed in any zone.

G. Notwithstanding any part of this Ordinance to the contrary, no sign shall be erected, maintained, or continued which constricts the flow of air through any window or door.

H. Notwithstanding any part of this Ordinance to the contrary, no sign shall be erected, maintained, or continued which is misleading, fraudulent, obscene, immoral, indecent, or unsightly in character as determined by the Zoning Administrator.

I. Notwithstanding any part of this Ordinance to the contrary, no advertising sign, except those of governmental entity, shall be erected, maintained or continued unless the name of the company or person owning, maintaining or erecting said sign is plainly displayed thereon.

J. No sign shall be erected, maintained or continued over or into any street, public way or alley right of way, unless specifically provided for within this Ordinance.

K. It shall be unlawful and a violation of this Ordinance for any person to fasten, place, paint or attach in any way; any sign, handbill, poster, advertisement, or notice of any kind, whether political or otherwise or cause the same to be done in or upon any curbstone, lamp post, telephone pole, telegraph pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest station buildings, tree, or in or upon any portion of any public sidewalk, street or sign except as specifically permitted within this ordinance.

L. No sign shall be erected, maintained or continued upon the inside of a curve of a street, which causes any interference to sight distance in the opinion of the Zoning Administrator.

M. No sign shall be erected unless otherwise provided for in this ordinance, maintained or continued displaying flashing or intermittent lights, or lights of changing degrees of intensity, except a sign indicating time or temperature, with changes altering on not less than a five second cycle when such time or temperature sign does not constitute a public safety or traffic hazard, in the judgment of the Zoning Administrator.

N. Notwithstanding any part of this Ordinance to the contrary, no sign shall be erected, maintained or continued in any zone which does not comply fully with SECTION 12.0 of this Ordinance except as specifically permitted within this Ordinance.

O. Notwithstanding any part of this Ordinance to the contrary, no sign shall be erected, maintained, or continued in zones except as provided for in SECTION 15.1 D (1) unless the sign complies with all of the following regulations:

1. Is erected and maintained to advertise a use specifically permitted in the zone in which the sign is located, or for a nonconforming use subject to the limitations contained in SECTION 15.1 Subsection D of this ordinance regarding nonconformance uses.
2. Is clearly incidental, customary to and commonly associated with the operation of the use being advertised.
3. Is established and controlled under and by the same ownership as the use being advertised.
4. Is limited in location to the premises on which the use being advertised is located.
5. Is limited in subject matter to the name, design, picture or phone number and address of owner, operator, builder, sales agent, managing agent, lessor, lessee, of the premises or of the activities (including merchandise handled or services rendered) on the premises on which such sign is located and does not include any general commercial advertising unrelated to or extending in substantial degrees beyond the specifically permitted subject.

6. Compliance with the exemptions listed in SECTION 15.2 of this Ordinance.

P. Notwithstanding any part of this Ordinance to the contrary, when any sign becomes defective or dangerous as determined by the Building Department, the Zoning Administrator shall have the power and the authority to remove or cause to have removed such sign when the owner or agent has failed to comply within the time specified by the Zoning Administrator to repair or make said sign safe or has failed to satisfy the Building Department that the sign is not defective or dangerous. The owner or agent of said sign shall bear the full costs of such removal and shall be billed accordingly. If the Building Department determines that said sign is of possible immediate danger to persons or vehicles, which may be passing nearby, the Zoning Administrator shall place or cause to have places, signs or barriers indicating such danger.

Q. Notwithstanding any part of this Ordinance to the contrary, whenever any sign which does not comply with the provisions and regulations of this Ordinance, collapses, burns, or if said sign is removed from its location, except for normal maintenance, said sign shall not be replaced or reconstructed, except in full compliance with all of the provisions and regulations of this Ordinance.

R. Notwithstanding any part of this Ordinance to the contrary, the Zoning Administrator shall have the power and authority to remove or cause to have removed any and all signs which the City Engineer determines to be a traffic hazard, when the owner or agent responsible for the maintenance of said sign has failed to eliminate such traffic hazards within two (2) weeks from the date that the written notice is mailed by the Zoning Administrator. SAID OWNER OR AGENT SHALL BEAR THE FULL COSTS OF SUCH REMOVAL AND SHALL BE BILLED ACCORDINGLY.

S. Except as otherwise specified in this Ordinance, signs shall be in conformance with the City of Newport's Building Code where applicable and shall be subject to the inspection and approval by the Building Inspector.

T. For the purpose of directing attention to commercial uses of City owned property, the City may erect one directional sign at each entrance of the zone in which the uses are located. Such signs shall be Class 8 and shall conform to the provisions of this article.

SECTION 15.2 SPECIAL SIGNS:

The following signs shall be permitted in any zone without a fee, unless noted otherwise herein:

1. One real estate sign per buildable lot as follows:

- a. R-1, R-2, R-3, R-4, and R-5 Zones - sign shall not exceed four (4) square feet in outside area and shall not exceed six (6) feet in height. Sign may be single or double faced.
- b. SC, RFD, PO, NC, CBD, and CBDF Zones - sign shall not exceed twelve (12) square feet in outside area and shall not exceed eight (8) feet in height. Sign may be single or double faced.

Sign shall advertise the sale, rental, or lease of the premises on which sign is located. Said sign shall not be animated or illuminated. Such sign shall be removed by owner or agent within ten (10) consecutive days after the sale, rental, or lease of the premises on which such sign is located.

2. Professional nameplates not exceeding one (1) square foot in outside area, single or double faced, shall not be animated nor illuminated.

3. Bulletin board not over twelve (12) square feet in outside area; single or double faced; maximum height of eight (8) feet, for public, charitable or religious institutions when the same is located on the premises of said institutions. Said sign shall not be animated or illuminated.

4. Signs not over twenty (20) square feet in outside area; single or double faced; maximum height of eight (8) feet, denoting the (person firm) architect, engineer or contractor when placed upon the premises where construction work is being performed. Said sign shall be removed by owner or agent within ten (10) consecutive calendar days after completion of project or that (person firms) part of project. Said sign shall not be animated or illuminated.

5. Memorial signs or tablets, containing the name of the building and the date of erection when built into the walls of the building and constructed of bronze, brass, marble, stone or incombustible materials. Said sign shall not be animated or illuminated.

6. Traffic signs, provided that said signs are designed in accordance with the "Manual on Uniform Traffic Control Devices for Streets and Highways", U.S. Department of Transportation, Federal Highway Administration.

7. Temporary signs, where permitted or required by the Zoning Administrator, to fulfill requirements of this Ordinance or other resolutions or regulations imposed by a governmental entity.

8. Repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.

9. Signs inside a building, but shall not include signs within open malls or open courts.

10. Courtesy benches for the convenience of the local bus patrons and members of the general public may contain advertising matter and be located in any zone in the City of Newport subject to the following conditions:

- (a) Benches shall be located only at designated bus stops, with the approval of the Zoning Administrator.
- (b) Each such bench shall be installed parallel with the street and set back not less than five (5) feet from the paved roadway or curb, except as may be otherwise required by the Zoning Administrator. Benches shall be kept in a neat, clean and usable condition so that each bench shall be accessible at all times.
- (c) Advertising shall be displayed only on the front of the backrest. The front of the backrest shall be that portion of the backrest that faces upon the street.
- (d) Subject to the condition that the Zoning Administrator shall have the duty and authority to require and obtain the removal of any courtesy bench deemed to be a hazard to pedestrians and vehicular traffic, or not in full compliance with this section. The Zoning Administrator shall have the duty and authority to remove or cause to have removed any courtesy bench not moved by the owner or agent ten (10) calendar days of receipt of such notice by the Zoning Administrator. Said owner or agent shall bear full costs of such removal and shall be billed accordingly.

II. Portable signs (sandwich board type signs) shall be permitted but shall not exceed eight (8) square feet in size. The sign shall be of an "A" frame chalkboard design. One sign will be permitted per entrance of the building and can be located within the public sidewalk next to the building. The sign shall not be located in such away as to obstruct movement along the sidewalk or a driver's visibility. The sign shall be removed at the close of business each day. Parking lots are excluded from utilizing portable signs.

SECTION 15.3 SIGN PERMIT REQUIRED FOR ERECTION OF SIGNS:

No sign shall be erected, except as exempted or specified within this Ordinance, until all required fees have been paid to the proper authorities or their agents and a permit has been issued for such by the Building Department.

1. If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location subject to all requirements enumerated herein.
2. If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.
3. If any sign is removed from one location and erected at a new location, a new permit shall be obtained.
4. Alteration or enlargement of any sign shall require a permit the same as for a new sign.
5. No permit shall be granted until after an application has been filed with the Building Inspector showing the plans and specifications, including dimensions, materials, and details of construction of proposed structure not until all provisions herein have been met.

SECTION 15.4 APPLICATION FOR SIGN PERMIT:

- A. Application for a signs permit shall be made and submitted at the office of the Zoning Administrator on the appropriate forms furnished by said Administrator.
- B. If any required information is left off of the application or if any of the submitted information is misrepresented on the application, the permit shall be denied or shall become null and void if already issued, regardless of actual construction being started or completed.
- C. Any sign not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this Ordinance and the owner or agent shall be given notice to remove said sign or correct the error within ten (10) calendar days of receipt of such notice.

SECTION 15.5 SIGN PERMIT FEES:

The fee for a sign permit shall be as provided for in the Building Code of the City of Newport or as otherwise established by the Board of City Commissioners.

SECTION 15.6 CLASSIFICATION OF SIGNS:

The following classification of signs shall be deemed to include all signs permitted in any zone unless other signs are specifically listed and provided for. The classification of all signs shall be determined by the Zoning Administrator. (Permitted use and location of signs see SECTION 15.7)

A. CLASS 1: The following signs meeting the following specifications shall constitute Class 1 and shall be only business or identification signs, as defined herein.

1. STRUCTURAL TYPE: Window signs and coverings; single faced only.
2. MAXIMUM SIZE OF SIGN: No restriction on size of any individual graphics/signage. Letters shall not exceed twenty-four inches (24") in height.
3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: Attached directly to the inside surface of the window hole parallel to wall face as defined in SECTION 7.0 of this Ordinance.
4. LIMITATIONS ON NUMBER OF SIGNS: One (1) Class 1 sign shall be permitted per each individual use.
5. OTHER LIMITATIONS:
 - (a) Shall be neither animated nor illuminated.
 - (b) Window signs and coverings shall comply with the following requirements:
 - (1) Window Perforation Film: Allows 50% open/50% opaque film covering. Perforated film background colors to be in 75% - 100% grayscale only. Perforated film to be consistent across frontage of the business. No perforated film allowed on entry doors.
 - (2) Window Tinting: The same shall apply to clear windows. Tinting to be consistent across frontage of the business. No reflective and/or bronze tinting is allowable. No tinting shall be allowed on entry doors. Any signage thereon shall not exceed twenty percent (20%) of the total window coverage.

B. CLASS 2: The following signs meeting the following specifications shall constitute Class 2 and shall be only business or identification signs, as defined herein.

1. STRUCTURAL TYPE: Ground or pole sign; single or double-faced.
2. MAXIMUM SIZE OF SIGN: Four (4) square feet in outside area.
3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: Six (6) feet.
4. LIMITATIONS ON NUMBER OF SIGNS: One (1) sign for each curb cut, plus a maximum of four (4) signs within the off street parking area.
5. OTHER LIMITATIONS:
 - (a) May be illuminated but only from a concealed light source and shall not be flashing, glaring nor animated.
 - (b) Shall be limited in subject matter to off street parking directions and instructions and shall not contain any advertisement of product or merchandise.
 - (c) No part of any ground or pole sign shall be closer than five (5) feet from any property line.
 - (d) No pole sign shall be, at its lowest point, less than four (4) feet from the ground.

C. CLASS 3: The following signs meeting the following specifications shall constitute Class 3 and shall be only business or identification signs, as defined herein.

1. STRUCTURAL TYPE: Individual letters only; single face only.

2. MAXIMUM SIZE OF SIGN:

(a) One (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located, except that in the SC and RFD Zones the ratio shall be one and one-half (1½) square foot for each horizontal linear foot of building wall per which the sign or signs are to be located.

(b) Maximum size of letters shall be thirty six (36) inches in overall height.

(c) Exposed neon may be used, subject to the approval of the Board of Adjustments.

(d) The total size for individual letter signs shall be computer by taking the area enclosed within a rectangle that is needed to completely encompass the letter or insignia of the sign.

3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: Attached flat to building but shall not extend above or beyond any wall of the building as defined in SECTION 7.0 of this Ordinance.

4. LIMITATION ON NUMBER OF SIGNS: One (1) sign for each street frontage of the lot on which the primary permitted use is located, except that where a complex of buildings in an attached shopping complex or an attached group of buildings only one (1) such sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one (1) firm, company, or corporation having separate ownership, or separate rental or lease. A professional office building within such a complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one (1) such sign regardless of how many firms, companies, or corporations have separate ownership, rental, or lease within said office building.

5. OTHER LIMITATIONS:

(a) Shall be neither flashing nor animated.

(b) May be illuminated, but only from a concealed light source.

D. CLASS 4: The following signs meeting the following specifications shall constitute Class 4 and shall be only business or identification signs, as defined herein.

1. STRUCTURAL TYPE: Flat sign; single faced only.

2. MAXIMUM SIZE OF SIGN: One (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located, except that in the SC and RFD Zones the ratio shall be one and one-half (1½) square feet of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: Attached to building, but shall not extend above or beyond any wall of the building as defined in SECTION 7.0 of this Ordinance.

4. LIMITATION ON NUMBER OF SIGNS: One (1) sign for each street frontage of the lot on which the primary permitted use is located except that where a complex of buildings is an attached shopping complex or an attached group of buildings only one (1) such sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one (1) firm, company, or incorporation having separate ownership, or separate rental or lease. A professional office building within such a complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one (1) such sign regardless of how many firms, companies, or incorporations having separate ownership, rental, or lease within said office building.

5. OTHER LIMITATIONS:

(a) Shall be neither flashing nor animated.

(b) May be illuminated, but only from a concealed light source.

(c) Exposed neon may be used, subject to the approval of the Board of adjustments.

E. CLASS 5: The following signs meeting the following specifications shall constitute Class 5 and shall be only business or identifications signs, as defined herein.

1. STRUCTURAL TYPE: Ground sign; single or double faced.

2. MAXIMUM SIZE OF SIGN: Twenty five (25) square feet.

3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: Ten (10) feet.

4. LIMITATIONS:

(a) One (1) sign may be erected for each street frontage of the lot or building site on which the primary permitted use is located.

(b) One (1) sign may be erected for identification purposes of a residential subdivision.

(c) For individual businesses in the NC zone, not part of a shopping center complex, where the principal. building is set back fifty (50) feet or more; one (1) sign is permitted.

5. OTHER LIMITATIONS:

(a) Shall be neither flashing or animated.

(b) May be illuminated, but only from a concealed light source.

(c) No part of any ground sign shall be closer than five (5) feet from any property line.

F. CLASS 6: The following signs meeting the following specifications shall constitute Class 6 and shall be only business or identification signs, as defined herein.

1. STRUCTURAL TYPE: Ground signs; single or double-faced.

2. MAXIMUM SIZE OF SIGN: One hundred fifty (150) square feet.
3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: Thirty (30) feet.
4. LIMITATIONS:

(a) One (1) sign may be erected on each abutting major street identifying the name of shopping complex of three (3) or more businesses located in a unified building or an attached group of buildings. One LED sign is permitted per each shopping complex entry sign in the SC zone.

(b) One (1) sign may be erected along each abutting arterial street entrance into an Industrial Zone for the purposes of identifying the name of the Industrial Park.

5. OTHER LIMITATIONS:

- (a) Shall be neither flashing or animated.
- (b) May be illuminated, but only from a concealed light source.
- (c) No part of any ground or pole sign shall be closer than five (5) feet from any property line.
- (d) No pole sign shall be, at its lowest point, less than ten (10) feet from the ground.

G. CLASS 7: The following signs meeting the following specifications shall constitute Class 7 and shall be only business or identification signs, as defined herein.

1. STRUCTURAL TYPE: Canopy and/or canopy signs.

2. MAXIMUM HEIGHT ABOVE GRADE AT BOTTOM OF SIGN: No such canopy and/or canopy sign shall be less than eight (8) feet in height as measured between the ground level and the lowest point or bottom edge of said canopy or canopy sign.

3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: No such canopy or canopy sign shall be more than fourteen (14) feet in height as measured between the ground level and the highest or top edge of said canopy or canopy sign.

4. MAXIMUM SIZE OF SIGN: No canopy sign shall extend above or below the limits of the canopy upon which it is attached. The canopy sign may extend the full length of the canopy, however, the total signage area for the canopy sign shall not exceed one hundred fifty (150) square feet in outside area.

5. OTHER LIMITATIONS:

- a. Shall be neither flashing or animated.
- b. The canopy sign may be illuminated from a concealed light source.
- c. No portion of any canopy or canopy sign shall be permitted to come closer than five (5) feet of any public right-of-way

d. The Building Inspector shall not issue any permit for the erection or maintenance of a canopy or canopy sign until after an application has been filed with the department for such a permit, which application shall set forth in detail the plans and specifications and location of said canopy or canopy sign. When required by the Zoning administrator, said applicant shall furnish complete proof, in the form of engineering calculations, stress diagrams, etc., that the building to which the canopy (marquee) or canopy sign is to be attached is so built that the addition of the canopy (marquee) or canopy sign to the building will, in no case, stress the building supporting said canopy (marquee) or canopy sign beyond the limits of safety, as defined by the Building Code.

H. CLASS 8: The following signs meeting the following specifications shall constitute Class 8 and shall be only business or identification signs, as defined herein.

1. STRUCTURAL TYPE: Projecting sign; double faced.

2. MAXIMUM HEIGHT ABOVE GRADE AT BOTTOM OF SIGN: No such projecting sign shall be less than eight (8) feet in height as measured between the ground level and the lowest point or bottom edge of said projecting sign.

3. MAXIMUM HEIGHT ABOVE GRADE AT TOP OF SIGN: Attached to building, but shall not extend above or beyond any wall of the building as defined in SECTION 7.0 of this Ordinance.

4. MAXIMUM SIZE OF SIGN: Fifteen (15) square feet.

5. LIMITATION ON NUMBER OF SIGNS: Only one (1) projecting sign per first floor tenant shall be permitted. Projecting signs may be used in combination with either Class 1 or Class 4 signs, provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

6. OTHER LIMITATIONS:

a. Shall be neither flashing nor animated. The projecting sign may be illuminated from a concealed light source. May not have removable or interchangeable letters. No portion of any projecting sign shall be permitted to extend into public right-of-way more than one half of the width of the sidewalk.

b. The Building Inspector shall not issue any permit for the erection or maintenance of a projecting sign until after an application has been filed with the department for such a permit, which application shall set forth in detail the plans and specifications, method of support and attachment and location of said projecting sign. When required by the Zoning administrator, said applicant shall furnish complete proof, in the form of engineering calculations, stress diagrams, etc., that the building to which the projecting sign is to be attached is so built that the addition of the projecting sign to the building will, in no case, stress the building supporting said projecting sign beyond the limits of safety, as defined by the Building Code.

(Am. Ord. O-2016-024, passed 12-12-16)

SECTION 15.7 PERMITTED USE AND LOCATION OF SIGNS:

The following classes of signs may be erected and maintained in the following zones.

TABLE 16
PERMITTED USE AND LOCATION OF SIGNS

ZONES	USES	PERMITTED
C O	(1) Any use permitted in this zone	1
	(2) In addition to sign classes permitted in (1):	
	(a) Off street parking areas (excluding parking garages).	2
	(b) All the following uses permitted in this zone (including parking garages):	
	1. Public owned and/or operated parks, and/or recreation areas including swimming pools.	3 and 6 or 4 and 6
R-1, R-2 and R-3	2. Recreational uses other than those publicly owned and/or operated such as golf courses, country clubs, and semi public swimming pools.	3 and 6 or 4 and 6
	(3) Conditionally permitted uses.	3 and 6 or 4 and 6
	(1) Conditional uses permitted in these zones:	1,3 and 6 or 4 and 6
R 4 and R-5	(2) Special permitted uses	3 or 4
	In addition to sign classes permitted in (1):	
	(a) Off street parking areas	1 and 2
SC & NC	(b) Conditional uses permitted in these zones	3 and 6 or 4 and 6
	(1) Any use permitted in these zones	1
	(2) In addition to sign classes permitted in (1):	
	(a) Service stations	3 and 5 or 4 and 5
	(b) Off street parking areas (excluding parking garages)	2
	(c) And all uses other than service stations and off street parking areas, (however, including parking garages) permitted in these zones	3 and 4
	(d) Signs for identification of name of shopping complex (3 or more businesses located in a unified building or attached group of buildings).	7
	(e) Individual businesses not a part of a shopping center complex, where the principal building is set back 50 feet or more.	6
	(f) Class 7 signs, where the use to which is located along an arterial street in a NC-District	7

* A combination of classes 3 and 4 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

CBD,CBDF, RFD	(1) Any use permitted in these zones	1
	(2) In addition to sign classes permitted in (1):	
	(a) Service stations	3 and 5 or 4 and 5
	(b) Off street parking areas (excluding parking garages).	2
	(c) All other uses other than service stations and off street parking area (however, including parking garages) permitted in this zone	3,6 and 8 or 4,6 and 8
	(d) Projecting signs in CBD only	9

* A combination of class 3 and 4 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

ZONES	USES	PERMITTED
P O	(1) Signs for identification of name of office complex (3 or more office uses located in a unified building or attached group of buildings), however, each individual office in this complex may have:	3 or 4
	(2) All other uses not located in an office complex (3 or more offices located in a unified building or attached group of buildings) including parking garages.	3 and 6 or 4 and 6
I 1	(1) Any use permitted in this zone	1,2 and 4
	(2) In addition to sign classes permitted in (1):	

	(a) Off street parking area (excluding parking garages).	3
	(b) An all uses other than off street parking areas (however, including parking garages) permitted in this zone.	5 and 8 or 6 and 8*
	(c) Signs for identification of name of industrial park.	9
I-2	(1) Any use permitted in these zones.	1
	(2) In addition to signs classes permitted in (1):	
	(a) Off street parking areas (excluding parking garages).	2
	(b) An all uses other than off street parking areas (however, including parking garages) permitted in these zones.	3 and 6 or 4 and 6
	(c) Signs for identification of industrial area.	7

* A combination of classes 3 and 4 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

SECTION 15.8 VARIANCES: SIGNS

The foregoing subsections of Article XV shall be subject to the same provisions regarding variances herefrom as provided by all the provisions of SECTIONS 18.6 and 18.7 of this ordinance.

SECTION 15.9 TEMPORARY SIGNS FOR SPECIAL EVENTS:

Temporary signs for the advertisement of special events shall be permitted within the City of Newport, subject to the provisions of this Section and all other applicable City and State laws, ordinances, and regulations.

A. DEFINITION: A special event is defined as an occurrence sponsored by a business or other organization (whether non-profit or for profit) for a specific purpose. Such an event is typified by, but not limited to, grand openings; going-out-of-business sales; sales; fund raising drives; religious, charitable, educational, or political festivals, meetings or rallies; carnivals or circuses; and other events incidental to the operation of a business or organization.

B. TYPES OF SIGNS PERMITTED: A person, business, or organization shall be permitted to erect one of the following signs for each special event:

1. Mobile Sign -- A mobile ground sign may be used. The maximum size for such a sign shall be 4' X 8', exclusive of the sign frame and wheel assembly. Such sign may be illuminated from a concealed light source and may be single - or double-faced. A mobile sign may not be flashing or animated and may not display exposed light bulbs or neon tubing.

2. Ground Sign -- A ground sign, either single- or double-faced, may be permitted. The maximum size of such a sign shall be 32 square feet in single-face. A ground sign may be illuminated from a concealed light source, but may not be flashing or animated.

3. Banner -- A banner may be permitted, up to the size of 3' X 25'. Such banner shall be mounted flat on a wall surface and may not extend above the roofline of a building. A banner shall not be illuminated.

OTHER LIMITATIONS: All signs must be located only on the premises where the special event is to occur. They may not be placed within the public right-of-way, nor attached to trees, utility poles, or other structures within the right-of-way. Signs may not be placed on sidewalks or other public ways.

C. PERMIT REQUIRED: Prior to the erection of a special event sign, a permit shall be obtained from the Zoning Administrator. A person, business, or other organization may obtain one special event sign per calendar, quarter, for a total of four permits annually.

A drawing of the proposed sign shall be submitted with the permit application, along with a fee of \$5.00. Once issued, a permit is valid for a period of fourteen calendar days. Upon expiration of the permit, the applicant shall remove the special event sign within twenty-four hours.

D. PENALTIES: Any person, business, or organization that violates the provisions of this section shall be subject to penalties as provided in Article XVI of the Zoning Ordinance. Furthermore, any person, business, or organization that fails to remove the temporary sign at the expiration of the 14-day period, as required in this section, shall not be allowed to install any additional special event signs, as regulated by this section, for a period of one year.

ARTICLE XVI ADMINISTRATION

SECTION 16.0 ENFORCING OFFICER:

A Zoning Administrator and/or his/her designee (official or officials appointed by the City of Newport, Commonwealth of Kentucky for carrying out the provisions and enforcement of this Ordinance) shall administer and enforce this Ordinance. He may be provided with assistance of such other persons as the City of Newport directs. If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, he shall take such action as is permitted by law. In addition to the foregoing, the Zoning Administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences, or additions, alterations or structural changes thereto and; discontinuance of any illegal work being done. All questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by State Statutes, Commonwealth of Kentucky. It shall be illegal for any persons or entity to interfere with the Zoning Administrator's performance of his duties as defined herein.

SECTION 16.1 ZONING PERMITS:

Zoning permits shall be issued in accordance with the following provisions:

A. **ZONING PERMIT REQUIRED:** No public or private building or other structure shall be erected, moved, added to, structurally altered or changed from one (1) permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit issued by the Zoning Administrator. No zoning permit shall be issued except in conformity with the provisions of this Ordinance, except after written orders from the Board of Adjustment.

B. **APPLICATION FOR ZONING PERMITS:** All applications for zoning permits shall be accompanied by:

1. A completed application form provided by the Zoning Administrator.
2. The required fee for a zoning permit as provided for in SECTION 19.0 of this Ordinance.
3. A development plan, if required by this Ordinance; or
4. A plot plan in triplicate drawing at a scale of not less than one (1) inch to one hundred (100) feet showing the following information as required by this Ordinance.
 - (a) The location of every existing and proposed building with number of floors and gross floor area, the use or uses to be contained therein, the number of structures including dimensions and height, and the number, size, and type of dwelling units.
 - (b) All property lines, shape, and dimensions of the lot to be built upon.
 - (c) Lot width at minimum building setback line.
 - (d) Minimum front and rear yard depths and side yard widths.
 - (e) Existing topography with a maximum of two foot (2') contour intervals. Where existing ground is on a slope of less than two (2) percent, either one (1) foot contours or spot elevations not more than fifty (50) feet apart shall be required.
 - (f) The proposed finished grade of the development area shown by contours with intervals not larger than two (2) feet supplemented where necessary by spot elevations.
 - (g) Total lot area in square feet.
 - (h) Location and dimensions of all curb cuts, driving aisles, off street parking and loading and/or unloading spaces including number of spaces, angle of stalls, and illumination facilities.
 - (i) Layout, type of surfacing, cross sections, and drainage plans for all off street parking facilities.
 - (j) A drainage plan of the lot area including provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
 - (k) All sidewalks, malls, and open spaces.
 - (l) Location, type and height of all walls, fences, and screen plantings.
 - (m) Location, size, height, class, and orientation of all signs.
 - (n) Location of all existing and proposed streets including right of way and pavement widths.
 - (o) All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types, and grades.
 - (p) And such other information as may be required by the Zoning Administrator to determine conformance with and provide for enforcement of this Ordinance and State Statutes of the Commonwealth of Kentucky.

C. **ISSUANCE OF ZONING PERMIT:** The Zoning Administrator shall either approve or disapprove the application (when required by this Ordinance (e.g., Development Plan submitted required) Planning and Zoning Commission or its duly authorized representative, approval or disapproval shall also be required). If disapproved, two (2) copies of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the Zoning Administrator's signature. The other copy, similarly marked, shall be retained by the Zoning Administrator. If approved, two (2) copies of the submitted plans shall be returned to the applicant marked "Approved". Such approval shall be attested by the Zoning Administrator's signature. The other copy similarly marked, shall be retained by the Zoning Administrator shall also issue a zoning permit to the applicant at this time and shall retain a duplicate copy for his records.

D. **FAILURE TO COMPLY:** Failure to obtain a zoning permit shall be a violation of this Ordinance and punishable under SECTION 16.9 of this Ordinance.

E. **EXPIRATION OF ZONING PERMIT:** If a building permit, as required herein, has not been obtained within ninety (90) consecutive calendar days from the date of issuance of the zoning permit, said zoning permit shall expire and be canceled by the Zoning Administrator and a building permit shall not be obtainable until a new zoning permit has been obtained.

SECTION 16.2 BUILDING PERMITS:

Building permits shall be issued in accordance with the following provisions:

A. **BUILDING PERMITS REQUIRED:** No public or private building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Building Inspector. No building permit shall be issued except in conformity with the provisions of this Ordinance, except after written orders from the Board of Adjustment.

B. **APPLICATION FOR BUILDING PERMITS:** All applications for building permits shall be accompanied by:

1. A completed application form provided by the Building Inspector;
2. An approved zoning permit.
3. The required fee for a building permit as provided for in SECTION 19.0 of this Ordinance.
4. A development plan, if required by this Ordinance; or

5. Plans in duplicate approved by the Zoning Administrator and including any additional information required by the Building Code and/or Building Inspector, as may be necessary to determine conformance with and provide for the enforcement of the building code and the State Statutes of the Commonwealth of Kentucky.

C. ISSUANCE OF BUILDING PERMIT:

The Building Inspector shall either approve or disapprove the application. If disapproved one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the Building Inspector's signature. The second copy similarly marked, shall be retained by the Building Inspector. If approved one (1) copy of the submitted plans shall be returned to the applicant marked "Approved". Such approval shall be attested by the Building Inspector's signature. The second copy, similarly marked, shall be retained by the Building Inspector. The Building Inspector shall also issue a building permit to the applicant at this time and shall retain a duplicate copy for his records.

D. COMPLIANCE: It shall be unlawful to issue a building permit or occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this Ordinance.

E. BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE: Building permits issued in conformance with the Building Code of the City of Newport prior to the date of adoption of this Ordinance, whether consistent or inconsistent with this Ordinance, shall be valid for a period of 180 consecutive calendar day period, the permit shall be void and a new permit, consistent with all provisions of this Ordinance and the Building Code shall be required. For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation.

F. EXPIRATION OF BUILDING PERMIT: If the work described in any building permit has not begun within ninety (90) consecutive calendar days from the date of issuance thereof, said permit shall expire and be canceled by the Building Inspector and no construction shall be permitted until a new building permit has been obtained.

G. CONSTRUCTION AND USE: To be as provided in application, plans, permits, zoning permits and building permits issued on the basis of plans and applications approved by the Zoning Administrator and/or Building Inspector authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed in violation of this Ordinance and punishable as provided by SECTION 16.9 of this Ordinance.

SECTION 16.3 CERTIFICATE OF OCCUPANCY:

It shall be unlawful for an owner to use or permit the use of any building or premises or part thereof, hereafter created, changed, converted or enlarged, wholly or partly, until a certificate of occupancy, which shall be a part of the building permit, shall have been issued by the Building Inspector. Such certificate shall show that such building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this Ordinance. It shall be the duty of the Building Inspector to issue a certificate of occupancy provided that he has checked and is satisfied that the building and the proposed use thereof conform with all the requirements of this Ordinance and the Building Code. No permit for excavation or construction shall be issued by the Building Inspector before he is satisfied that the plans, specifications, and intended use conform to the provisions of this ordinance.

SECTION 16.4 CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDING:

Upon written request from the fee owner, the Building Inspector shall issue a certificate of occupancy for any building or premises existing at the time of enactment of this Ordinance, certifying, after inspection, the extent and kind of use made of the building or premises, and whether such use conforms with the provisions of this Ordinance.

SECTION 16.5 CERTIFICATE OF OCCUPANCY FOR LAWFUL NONCONFORMING USES AND STRUCTURES:

A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created by this Ordinance. A fee as provided for in SECTION 19.0 of this Ordinance shall be charged for said certificate. Applications for such certificates of occupancy for nonconforming uses of land and buildings shall be filed with the Building Inspector by the owner or lessee of the land or building occupied by such nonconforming uses within six (6) consecutive calendar months of the effective date of this Ordinance. Failure to apply for such certificate of occupancy will place upon the owner and lessee the entire burden of proof that such use of land or buildings lawfully existed on the effective date of this Ordinance. It shall be the duty of the Building Inspector to issue a certificate of occupancy for lawful nonconforming uses upon application and such certificate shall identify the intent to which the nonconforming uses exist at the time of issuance of such certificate.

SECTION 16.6 DENIAL OF CERTIFICATE OF OCCUPANCY:

Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance and to plans for which the building permit was issued.

SECTION 16.7 CERTIFICATE OF OCCUPANCY RECORDS:

A record of all certificates of occupancy shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary building affected by such certificate of occupancy.

SECTION 16.8 COMPLAINTS REGARDING VIOLATIONS:

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance and the State Statutes, Commonwealth of Kentucky.

SECTION 16.9 PENALTIES:

Any person or entity violating any of the provisions herein shall, upon conviction in the Campbell District Court, be guilty of a Class B misdemeanor and shall be subject to fine and/or imprisonment in accordance with the penalties for a Class B misdemeanor as provided for in the Kentucky Revised Statutes.

(Am. Ord. O-2014-017, passed 9-22-2014; Am. Ord. O-2016-024, passed 12-12-16)

SECTION 16.10 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS:

It is the intent of this Ordinance that:

- A. Where investigations can be made by the Zoning Administrator or other designated City employees, at the request of the Zoning Administrator, using equipment normally available to the City such investigation shall be so made before notice of violation is issued.
- B. Where technical complexity, nonavailability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the Zoning Administrator for the City to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:
 - 1. Causing corrections in apparent violations of performance standards;
 - 2. Protecting individuals from arbitrary, capricious, and unreasonable administration and enforcement of performance standard regulations; and
 - 3. Protecting the general public from unnecessary costs for administration and enforcement.
- C. If the Zoning Administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, he shall take or cause to be taken lawful action to cause correction to within limits set by such performance standards.

SECTION 16.11 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS:

If, in the judgment of the Zoning Administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

A. The Zoning Administrator shall give written notice, by registered mail or certified mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator within thirty (30) consecutive calendar days of receipt of such notification. However, the following alleged violations shall require an answer or correction of the alleged violations to the satisfaction of the Zoning Administrator within five (5) consecutive calendar days from the receipt of such notification by the Zoning Enforcement Officer:

- 1. Banners and temporary signs (Section 15.2).
- 2. Parking on off-street unpaved surfaces (Section 13.0).
- 3. Parking or storing of trailers, mobile homes, campers, inoperable vehicles, and other such type equipment (Section 9.25).

The notice shall state that failure to reply or to correct the alleged violation to the satisfaction of the Zoning Administrator within thirty (30) consecutive calendar days of receipt of said notice constitutes admission of violation of the terms of this Ordinance.

B. If there is no reply within thirty (30) consecutive calendar days (or five consecutive calendar days as applicable) of receipt of said notice, but the alleged violation is corrected to the satisfaction of the Zoning Administrator, he shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking such other action as may be warranted.

C. If there is no reply within thirty (30) consecutive calendar days (or five consecutive calendar days as applicable) of receipt of said notice and the alleged violation is not corrected to the satisfaction of the Zoning Administrator within the established time limit, he shall proceed to take or cause to be taken such action as is warranted by continuation of a violation after notice to cease.

D. If a reply is received within thirty (30) consecutive calendar days (or five consecutive calendar days as applicable) of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the Zoning Administrator, but requesting additional time, the Zoning Administrator may grant a reasonable extension of time if (in) he deems it warranted under the particular circumstances of the case and (to) if the extension will not, in his opinion, cause imminent peril to life, health or property.

E. If a reply is received within thirty (30) consecutive calendar days (or five consecutive calendar days as applicable) of receipt of said notice requesting a technical determination of the alleged violations, and if the alleged violations continue, the Zoning Administrator may call in properly qualified expert to investigate and determine whether the violation exists or may advise the person or persons responsible for the alleged violation that they may retain qualified experts, at their own expense, to investigate and determine whether the violations exist.

The findings of the experts, if any, shall be submitted to the Zoning Administrator to determine, in his opinion, whether there are violations based upon the findings presented to him. If the findings indicate violations of the performance standards, the persons responsible for the violations shall be notified by the Zoning Administrator and may be subject to the penalties as may be appropriate under the terms of Section 16.9 of this Ordinance. If the Zoning Administrator determines that no violation exists, the person or persons shall be promptly notified by the Zoning Administrator that no violations exist.

F. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice requesting technical determination as provided in this Ordinance, and if the alleged violations continue, the Zoning Administrator shall call in properly qualified experts to investigate and determine whether violations exist. If expert findings indicate violations of the performance standards, the costs of the investigations shall be assessed against the properties or persons responsible for the violations in addition to such other penalties as may be appropriate under the terms of SECTION 16.9 of this Ordinance. If no violation is found, the costs of the investigations shall be paid by the City without assessment against the properties or persons involved.

ARTICLE XVII AMENDMENT PROCEDURE INCLUDING BUT NOT LIMITED TO CHANGE IN ZONING

SECTION 17.0 DECLARATION OF PUBLIC POLICY:

This Ordinance, and as herein used the term ordinance shall be deemed to include the official zoning map or maps, shall not be amended except to correct a manifest error in the ordinance, or, because of changed or changing conditions in a particular area or in the City generally, to rezone an area or to extend the

boundary of an existing zone in accordance with the adopted Comprehensive Plan for the City of Newport or to change the regulations and restrictions thereof, only as necessary to the promotion of the public health, safety or general welfare. Subject to the limitations of the foregoing Declaration of Public Policy, an amendment to this Ordinance may be initiated by the Board of City Commissioners or the Planning Commission on their own motion, or in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm or corporation filing and application therefor with the City.

SECTION 17.1 LIMITATIONS ON ALL PROPOSED AMENDMENTS:

All proposed amendments to this Ordinance regardless of how or by whom initiated, shall be subject to the following limitations:

A. **ADMINISTRATIVE EXAMINATION:** No amendment to this Ordinance shall be adopted until the amendment has been examined by the Planning Commission as hereinafter set forth. Before any amendment is granted, the Planning Commission or the Board of the City Commissioners must find that the amendment is in agreement with the adopted Comprehensive Plan for the City of Newport or, in the absence of such a finding, that one or more of the following apply and such finding shall be recorded in the minutes and records of the Planning Commission or Board of Commissioners.

1. That the original zoning classification given to the property was inappropriate or improper.
2. That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the community's Comprehensive Plan and which have substantially altered the basic character of such area.

The Commission shall review the proposal, and shall within sixty (60) consecutive calendar days from the date of its receipt, advise the Board of City Commissioners, after a public hearing, whether it recommends approval or disapproval of the change and shall state the reasons for its recommendation.

B. **UNIFORMITY OF ZONE REGULATIONS AND RESTRICTIONS:** No amendment to this Ordinance shall be adopted whereby the regulations and restrictions established thereby are not uniform for each zone having the same classification and bearing the same symbol or designation on the official zoning map.

C. **MINIMUM SIZE OF NEW ZONES:** No amendment of this Ordinance shall be adopted whereby the zoning classification of an area is changed unless the total area being applied for meets the following requirements as to minimum size. For the purpose of computing the total size of an area to be rezoned for compliance herewith there shall be added to such area;

1. The area of public rights of way interior to the area being changed;
2. One half the area of public rights of way abutting the area being changed;
3. The area of any land which is contiguous to the area being changed and which land already bears the zoning classification sought for the area being changed.

For the purpose of this section, neither continuity nor abutment shall be destroyed by the existence of a street or alley. Subject to the foregoing limitations, every zone shall be of at least the following size:

The zoning map or maps shall not be amended, changed or modified in such manner as to create a free standing zone of less than one (1) acre except where specific area restrictions are stipulated in this Ordinance or as outlined in the adopted Comprehensive Plan for the City of Newport.

SECTION 17.2 PUBLIC HEARING REQUIRED, NOTICE GIVEN:

No amendment including, but not limited to, changes of zoning to this Ordinance, shall become effective until after a public hearing has been held by the Planning and Zoning Commission in relation thereto at which hearing parties in interest and citizens shall have an opportunity, to be heard. Additionally where a hearing is scheduled on a proposal to amend any zoning map, plat, plan, text or regulation, the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

A. Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

1. The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height; and
2. The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission; and

B. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the Planning and Zoning Commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish the Zoning Administrator the names, property and mailing addresses of the owners of all adjoining property. Records maintained by the Property Valuation Administrator shall be relied upon to conclusively determine the identity and address of the owner. If the property is in condominium or cooperative forms of ownership, the person notified by mail shall be the president or chairman of the owner group, which administers property commonly, owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

C. If the property the classification of which is proposed to be changed adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

1. If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or
2. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the City in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

D. Where property adjoins a street or alley, the classification of which is to be changed, property abutting the opposite side of such street or alley shall be considered adjoining property.

(Am. Ord. O-2016-024, passed 12-12-16)

SECTION 17.3 APPLICATION FOR AMENDMENTS:

A. BY WHOM MADE: The owner, legal representative, Planning and Zoning Commission, or Board of City Commissioners may apply for an amendment to this Ordinance.

B. FILING OF APPLICATION: All applications for amendments to this Ordinance shall be filed in writing with the Zoning Administrator to be transmitted to the Planning and Zoning Commission on forms furnished by the Zoning Administrator (in triplicate see Appendix A). The fee required for applying for such amendment shall be as provided in SECTION 19.0 of this Ordinance.

C. SUBMISSION OF DEVELOPMENT PLAN AS CONDITION TO INDUSTRIAL, COMMERCIAL, OR MULTI FAMILY RESIDENTIAL ZONING MAP AMENDMENT: Any request for a zoning map amendment, except for requests sponsored by the Newport Board of Commissioners or by the Newport Planning and Zoning Commission, to any industrial (i.e., I 1, I 2) commercial (i.e. NC, SC, etc.) or multi family residential zone (i.e., R-4 and R-5) shall be made in accordance with all applicable requirements of this Ordinance, including the following:

1. APPLICATION AND PROCESSING: Application for a zoning map amendment shall be processed as follows:

a. Application for a zoning amendment shall be filed with the Zoning Administrator as required by Section 17.3, B., and shall include a Development Plan in accordance with the applicable requirements of SECTION 9.19, of this Ordinance. The Zoning Administrator may waive the submission of such data involving detailed engineering study until such time as the zoning amendment has been granted.

b. The Planning and Zoning Commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the Development plan, and other applicable requirements of this section. Upon holding such a hearing, the Planning and Zoning Commission shall make one of the following recommendations to the Legislative Body: approval, approval with conditions, or disapproval.

(1) The Planning and Zoning Commission, upon request by an applicant for a map amendment and one or more variances or conditional use permits, may hear and decide the applications for variances and/or conditional use permits.

(2) The Planning and Zoning Commission, when deciding applications pursuant to subsection (i) above shall assume all powers and duties otherwise exercised by the Board of Adjustments pursuant to KRS 100.231, 233, 237, 241, 243, 247, 251, and any other such section of Chapter 100 of the Kentucky Revised Statutes hereafter adopted or amended which outlines the statutory powers of the Board of Adjustments.

(3) The applicant for the map amendment which requires one or more variances and/or conditional use permits, shall at the time of filing his application, designate whether he wishes the Planning and Zoning Commission to decide that part of the application involving the variances and/or conditional use permits or whether the applicant desires to have the same heard by the Board of Adjustments. Nothing herein shall restrict or limit the power and right of the Planning and Zoning Commission to refuse to hear that part of the application involving the variances and/or conditional use permits and to direct that they shall first be heard by the Board of Adjustments.

c. The Legislative Body shall, within forty five (45) consecutive days after receiving the recommendations of the Planning and Zoning Commission, review said recommendations and take action to approve or disapprove the proposed Development plan. Such approval may incorporate any conditions imposed by the Legislative Body. However, should the Legislative Body take action to impose different conditions than were reviewed and recommended by the Planning and Zoning Commission, then said conditions shall be resubmitted to the Planning and Zoning Commission for further review and recommendations in accordance with the process required for the initial review. Approval of the zoning map amendment shall require that development be in accordance with the approved Development plan. Additionally, upon approval of the zoning map amendment. The official zoning map shall be amended for the area as shown on the approved Development Plan.

d. The Legislative Body shall forward a copy of the approved Development Plan to the Zoning Administrator or the City's duly authorized representative, for further processing in accordance with the applicable requirements of this Ordinance.

e. If the detailed engineering data required under 9.19 had been waived by the Zoning Administrator in the initial submission of the Development plan, then such data shall be submitted for review in accordance with the Site Plan requirement of SECTION 9.19 before a permit may be issued for construction. The Zoning Administrator, in reviewing the Site Plan, may authorize minor adjustments from the approved Development Plan, provided that the adjustments do not; affect the special relationships of structures, change land uses, increase overall density, alter circulation patterns (vehicular and pedestrian) decrease the amount and/or usability of open space or recreation areas, affect other applicable requirements of this Ordinance, or conflict with any conditions which may have been imposed by either the Planning and Zoning Commission or the Legislative Body in their review of said Development Plan.

2. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the Zoning Administrator as noted above, shall be made in accordance with the procedure required by this Ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.

3. EXPIRATION: The zoning map amendment shall be subject to the time constraints established below. The Legislative Body shall initiate a request for a public hearing by the Planning and Zoning Commission, in accordance with the requirements of KRS Chapter 100 and 147, if substantial construction has not been completed within a period of twelve (12) consecutive months from the date of approval of the Development Plan by the Legislative Body.

At said public hearing, the applicant shall demonstrate the following:

- a. That the construction was delayed due to circumstances beyond the control of the applicant; and
- b. That prevailing conditions have not changed appreciably to render the approved Development Plan obsolete.

Following said public hearing; the Planning and Zoning Commission shall forward its findings and recommendations to the legislative body concerning the following:

- a. That said zoning map amendment should revert to its original designation; or
- b. That the zone be changed to a more appropriate zone pursuant to changes in prevailing conditions that have rendered the approved Development Plan obsolete; or
- c. That a time extension be granted and that a revised Development plan be submitted pursuant to the findings and recommendations of the Legislative Body; or
- d. That said zoning map amendment should not revert to its original designation and that a reasonable time extension be granted.

The amount of construction that constitutes substantial construction shall be approved in the Development Plan.

SECTION 17.4 DISPOSITION OF APPLICATIONS:

A. **ADMINISTRATIVE DISPOSITION:** Upon receipt of an application for an amendment from the Zoning Administrator, the Planning and Zoning Commission shall hold at least one (1) public hearing on the proposed amendment. After consideration of the proposed amendment, the Planning and Zoning Commission shall forward written notice of its findings and recommendations concerning the application to the Board of City Commissioners along with a copy of the application.

B. **LEGISLATIVE DISPOSITION:** Within a reasonable time after receipt of the Planning and Zoning Commission's recommendations and findings concerning the application and copy of the application, the Board of City Commissioners shall act on such application. A majority of the entire Legislative Body shall be required to override the recommendation of the Planning and Zoning Commission.

ARTICLE XVIII BOARD OF ADJUSTMENT

SECTION 18.0 ESTABLISHMENT OF BOARD OF ADJUSTMENT: MEMBERSHIP; APPOINTMENT; TERMS; VACANCIES; OATHS; COMPENSATION; REMOVAL; OFFICERS:

- A. Board Of Adjustment is hereby established for the City of Newport.
- B. The Board of Adjustment shall consist of five (5) members, all of whom must be citizen members and not more than two (2) of whom may be citizen members of the Planning and Zoning Commission.
- C. The mayor shall be the appointing authority of the Board of Adjustment subject to the approval of the Board of City Commissioners.
- D. The term of office for the Board of Adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3) and four (4) years respectively.
- E. Vacancies on the Board of Adjustment shall be filled within sixty (60) calendar days by the mayor. If the mayor fails to act within that time, the Planning and Zoning Commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.
- F. All members of the Board of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by SECTION 228 of the Constitution of the Commonwealth of Kentucky before any judge, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.
- G. Reimbursement for expenses or compensation or both may be authorized for members on the Board of Adjustment.
- H. Any member of the Board of Adjustment may be removed by the mayor, subject to the approval by the Board of City Commissioners, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The mayor, exercising the power to remove a member from the Board of Adjustment, shall submit a written statement to the Planning and Zoning Commission setting forth the reasons and the statement shall be read at the next meeting of the Board of Adjustment which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of the county in which he resides.
- I. The Board of Adjustment shall elect annually a chairman, vice chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for re election at the expiration of this term.

SECTION 18.1 MEETING OF BOARD; QUORUM; MINUTES; BYLAWS; FINANCES; SUBPOENA POWER; ADMINISTRATION OF OATHS:

- A. The Board of Adjustment shall conduct meetings at the call of the chairman who shall give written or oral notice to all members of the Board at least seven (7) days prior to the meeting, which notice shall contain the date, time and place for the meeting, and the subject or subjects which will be discussed.
- B. A simple majority of the total membership of the Board of Adjustment as established by regulation or agreement shall constitute a quorum. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.
- C. The Board of Adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the Board of Adjustment. A transcript of the minutes of the Board of Adjustment shall be provided if requested by party, at the expense of the requesting party, and the transcript shall constitute the record.
- D. The Board of Adjustment shall have the right to receive, hold, and spend funds, which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government.
- E. The Board of Adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.
- F. The chairman of the Board of Adjustment shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.

SECTION 18.2 PROCEDURE FOR ALL APPEALS TO BOARD:

Appeals to the Board of Adjustment may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action or decision of the Zoning Administrator, however, appeals for violation of the Official Zoning Code for which a citation has been issued and a civil penalty assessed pursuant to the Appendix A Fine Schedule shall be had with the Code Enforcement Board. Such appeal shall be taken within thirty (30) calendar days after the appellant or his agent receives notice of the action to be appealed from, by filing with said Zoning Administrator and with the Board, a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by SECTION 19.0 of this Ordinance shall also be given to the Zoning Administrator at this time. Said Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the Board an interested person may appear and enter his appearance, and all shall be given an opportunity to be heard. The Board of Adjustment shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least one (1) calendar week prior to the hearing, and shall decide on the appeal within sixty (60) consecutive calendar days. The affected party may appear at the hearing in person or by attorney.

(Am. Ord. O-2016-024, passed 12-12-16)

SECTION 18.3 APPEALS FROM Planning and Zoning Commission OR BOARD OF ADJUSTMENT:

Any appeal from Planning and Zoning Commission or Board of Adjustment action may be taken in the following manner:

A. Any person or entity claiming to be injured or aggrieved by any final action of the Planning and Zoning Commission or Board of Adjustment may appeal from the action to the circuit court of the county in which the land lies. Such appeal shall be taken within thirty (30) consecutive calendar days after the final action of the Planning and Zoning Commission or Board of Adjustment. Final action shall not include the Planning and Zoning Commission's recommendations made to other governmental bodies.

B. All appeals shall be taken in the appropriate circuit court within thirty (30) consecutive calendar days after the action or decision of the Planning and Zoning Commission or Board of Adjustment and all decisions, which have not been appealed within thirty (30) consecutive calendar days, shall become final. After the appeal is taken, the procedure shall be governed by the rules of civil procedure. When an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the Planning and Zoning Commission in all cases, and shall cause it to be delivered for service as in any other law action.

SECTION 18.4 STAY OF PROCEEDINGS:

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken, certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

SECTION 18.5 POWERS OF BOARD OF ADJUSTMENT:

Upon appeals, the Board of Adjustment shall have the following powers:

A. To hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusually shape of a site on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or some other extra ordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of the zoning ordinance would deprive the applicant of reasonable capacity to make use of the land.

B. To hear and decide appeals where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant or refusal made by a Zoning Administrator in the enforcement of this Ordinance. Such appeal shall be taken within sixty (60) consecutive calendar days.

C. To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met as specified in SECTION 9.13 of this Ordinance.

D. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of the Official Zoning Map or for decisions upon other special questions upon which said Board is authorized to act upon.

E. To hear and decide, in accordance with the provisions of this Ordinance and the adopted Comprehensive plan for the City of Newport, requests for the change from one nonconforming use to another.

SECTION 18.6 DIMENSIONAL VARIANCES; CHANGE FROM ONE NONCONFORMING USE TO ANOTHER; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES:

A. DIMENSIONAL VARIANCES: Before any dimensional variance is granted, the Board of Adjustment must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance. Such dimensional variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a dimensional variance (including the required fee as per SECTION 19.0 of this Ordinance) is submitted demonstrating:
 - a. That specific conditions and circumstances exist which are unique to the applicant's land and do not exist on other land in the same zone.
 - b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone.
 - c. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequently to the adoption of this Ordinance.
 - d. Reasons that the dimensional variance will preserve, not harm the public safety and welfare, and will not alter the essential character of the neighborhood.
 - e. That granting the dimensional variance requested will not confer on the applicant any special privilege that is not conferred by this Ordinance to other lands, structures, or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a dimensional variance.
2. Notice of public hearing shall be given at least fourteen (14) days in advance of the hearing by first class and certified mail to each owner of record of every parcel of property adjoining the property to which the dimensional variance is requested. It shall be the duty of the person or persons proposing the dimensional variance to furnish to the Zoning Administrator the names, property, and mailing addresses of the owners of all adjoining property. Where property adjoins a street or alley, property abutting the opposite side of such street or alley shall be considered adjoining property. Records maintained by the Property Valuation Administrator shall be relied upon to conclusively determine the identity, property, and mailing address of the owner. If the property is in condominium or cooperative forms of ownership, the person notified by mail shall be the president or chairman of the owner group, which administers property commonly, owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the Property Valuation Administrator's records as having the same address.

3. The public hearing shall be held. Any person may appear in person, or by agent or by attorney.

4. Prior to granting a dimensional variance;

a. The Board of Adjustments shall further make the following findings when granting a dimensional variance:

- (1) The granting of the variance will be in harmony with the general purpose and intent of this Ordinance as well as the adopted Comprehensive Plan for the City of Newport.
- (2) It will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.
- (3) It will not adversely effect the public health, safety, or welfare.
- (4) It will not alter the essential character of the general vicinity.
- (5) It will not cause a hazard or nuisance to the public.
- (6) It will not allow an unreasonable circumvention of the requirements of the zoning regulations.

b. In granting any dimensional variance, the Board of Adjustment may prescribe appropriate conditions and safeguards, when made a part of the terms under which the dimensional variance is granted.

B. DIMENSIONAL VARIANCE CANNOT CONTRADICT ZONING REGULATION; The Board of Adjustment shall not possess the power to grant a dimensional variance to permit a use of any land, building, or structure which is not permitted by this Ordinance in the zone in question, or to alter density requirements in the zone in question.

C. DIMENSIONAL VARIANCE RUNS WITH LAND: A dimensional variance applies to the property for which it is granted and not to the individual who applied for it. A dimensional variance also runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

D. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: No change from one nonconforming use to another will be granted by the Board of adjustment unless and until:

1. A written application for a change from one nonconforming use to another (including the required fee as per SECTION 19.0 of this Ordinance) is submitted to the Board demonstrating the following:
 - a. Reasons that the proposed change will preserve, not harm the public safety and welfare and will not injure the essential character of the neighborhood.
 - b. The proposed nonconforming use will be more in conformance with the Adopted Comprehensive plan for the City of Newport as it applies to the area in question, than the existing nonconforming use, and also more in conformance to the type of uses permitted in the zone in question, as per this Ordinance, than the present existing nonconforming use.
2. Notice of public hearing shall be given in accordance with SECTION 18.2 of this Ordinance.
3. The public hearing shall be held. Any person may appear in person, or by agent or by attorney.
4. Prior to granting a change from one nonconforming use to another, the Board of Adjustment shall make findings that the requirements of this and other applicable sections of this Ordinance have been met by the applicant.

(Am. Ord. O-2016-024, passed 12-12-16)

SECTION 18.7 DECISIONS OF THE BOARD OF ADJUSTMENT:

A. In exercising the aforementioned powers, the Board of Adjustments may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as made by the Zoning Administrator, from whom the appeal is taken.

B. A simple majority of the total membership of the Board of adjustment as established by regulation or agreement, shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

C. The details of the decision of the Board shall be forwarded to the Zoning Administrator.

SECTION 18.8 DECISIONS OF THE ZONING ADMINISTRATOR:

A. Upon petition by an applicant, the Zoning Administrator may waive or modify the standards governing the placement of certain appurtenant structures within a residential property.

B. For the purposes of this section, appurtenant structures shall be limited to swimming pools, porches, decks, and utility sheds (smaller than 100 square feet).

C. Applicants shall request such consideration in writing, stating the nature of the request and reasons for the need for a modification or waiver.

D. All decisions of the Zoning Administrator shall be rendered, in writing, within ten (10) working days of receipt of a petition, and after consultation with all adjoining property owners. Decisions shall be forwarded to the Planning and Zoning Commission and Board of Adjustment.

E. The Zoning Administrator, at his/her discretion, may refer a petition to the Board of Adjustments for action without recommendation.

ARTICLE XIX SCHEDULE OF FEES

SECTION 19.0

Fees shall be as provided by separate ordinance of the Legislative Body.

ARTICLE XX REASONABLE ACCOMMODATION IN LAND USE AND ZONING REGULATION

SECTION 20.0 DEFINITIONS:

For the purposes of this Article, the following terms are defined as follows:

FAIR HOUSING LAWS. The Federal Fair Housing Amendments Act of 1988 (FHA) and the provisions of KRS 344.600 *et seq.*, as may be amended from time to time (fair housing laws).

HANDICAPPED. An individual recovering from alcohol and/or chemical dependency who has a history or record of alcohol or drug use or addiction but who are not currently using alcohol or illegal drugs and considered handicapped as more specifically defined under the fair housing laws.

OPERATOR. An individual or business entity, whether for profit or non-profit, which provides residential services at a sober living facility.

SOBER LIVING FACILITY. A single family dwelling unit (referred to herein uniformly as a dwelling) used by individuals recovering from a drug and/or alcohol addiction, considered as an individual with a recognized handicap hereunder and under state or federal law. A sober living facility shall not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional or other health care services; financial management services; legal services; vocational services; and other similar supportive services.

SECTION 20.1 PURPOSE:

A. Fair housing laws impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with recognized handicaps an equal opportunity to housing in accordance therewith.

B. In furtherance of the purposes of the fair housing laws, this article is intended to: preserve the residential character of single family residential neighborhoods; ensure that sober living facilities are actually entitled to reasonable accommodation and not simply avoiding the city's land use or zoning regulations; limit the secondary impacts of sober living facilities by reducing noise and traffic; preserve safety and provide adequate on-street parking; provide an accommodation for the recognized handicapped individuals that is reasonable and actually bears some resemblance to the opportunities afforded non-handicapped individuals to use and enjoy a dwelling in a residential neighborhood; and, to provide a living environment that will enhance the opportunity for the recognized handicapped to be successful in their programs. Pursuant to fair housing laws, this article is also created to provide individuals with a recognized handicap reasonable accommodation in rules, policies, practices, and procedures to ensure equal access to housing and facilitate the development of housing for individuals with such recognized handicaps when the same may act as a barrier to fair housing opportunities.

C. There is hereby established a procedure for making requests for reasonable accommodation in land use and zoning regulations, policies, practices, and procedures to comply fully with the intent and purpose of fair housing laws.

SECTION 20.2 APPLICABILITY:

Reasonable accommodation within the context of the land use and zoning regulations means providing individuals with recognized handicaps flexibility in the application of land use and zoning regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

SECTION 20.3 NOTICE TO THE PUBLIC OF AVAILABILITY OF ACCOMMODATING PROCESS:

Notice of the availability of reasonable accommodation shall be prominently displayed and provided to requesting individuals, advising the public of the availability of the procedure for eligible applicants.

SECTION 20.4 APPLICATION FOR REQUESTING REASONABLE ACCOMMODATION:

A. Forms for requesting reasonable accommodation shall be available in the Development Services Department.

B. An application for reasonable accommodation may be made by: any individual with a recognized handicap or his or her representative; the owner of the real property intended for use as a sober living facility; or, the owner/operator of an entity providing residential services at the location.

C. Requests for reasonable accommodation shall be in writing and provide the following information:

1. Name, address, and phone number of the applicant requesting reasonable accommodation;
2. Name, address, and phone number of the house manager who is responsible for the day to day operation of the facility, if any;
3. Address of the property for which accommodation is requested;
4. Name, address, and phone number of the property owner(s) if not the applicant;
5. If the sober living facility operator is not the property owner, then a copy of any lease agreement between applicant and owner must be provided as well as written approval from the property owner to operate a sober living facility at the property location;
6. Detailed description of the requested accommodation with reference to any known regulation, policy or procedure from which relief is sought;
7. Reason that the requested accommodation may be necessary for the individual(s) with the recognized handicap to use the dwelling;
8. Copy of the sober living facility rules and regulations including intake procedures and relapse policy;
9. Blank copy of all forms that residents or potential residents are required to complete;
10. An affirmation by the applicant or owner/operator that only residents with a recognized handicap shall reside at the sober living facility; and

11. Copy of any agreement between applicant or owner/operator and the property owner setting forth or concerning any fee arrangement or financial reimbursement applicable to each resident of the sober living facility.

D. No person or entity shall open or operate a sober living facility until the information outlined herein has been provided.

E. The applicant or owner/operator shall be responsible for filing with the city within thirty (30) days, any updates or changes to policies, procedures, ownership, or operating entity.

F. Any information obtained shall be considered confidential, shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection unless otherwise required by law.

G. A request for reasonable accommodation to the regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation shall not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

H. If an applicant needs assistance in making the request for reasonable accommodation, it shall be provided to ensure that the process is properly undertaken.

I. An applicant may seek relief from the strict application of the provisions of this article by submitting such request in writing to the Director of Development Services (hereafter "Director") setting forth specific reasons as to why accommodation over and above the provisions set forth herein is necessary.

J. No application fee shall be charged.

SECTION 20.5 GROUNDS FOR REASONABLE ACCOMMODATION:

The Director shall consider in determining whether to grant a reasonable accommodation the totality of the following factors:

- A. That the property will be used by an individual with a recognized handicap protected under the fair housing laws;
- B. Special needs created by the recognized handicap;
- C. Potential benefit that can be accomplished by the requested modification;
- D. Potential impact on properties within the vicinity;
- E. Physical attributes of the property and dwelling structure;
- F. Alternate accommodations that may provide an equivalent level of benefit;
- G. Whether the requested accommodation would impose an undue financial or administrative burden on the city;
- H. Whether the requested accommodation would require a fundamental alteration in the nature of a City function or service; and
- I. Whether granting the request would be consistent with the city's Comprehensive Plan.

SECTION 20.6 GENERAL CONDITIONS:

- A. The sober living facility shall be limited to six (6) or fewer occupants, not counting a house manager, if any.
- B. The sober living facility shall not be located in an accessory structure on the premises.
- C. All garage and driveway spaces associated with the dwelling shall, at all times, be available for the parking of vehicles. Residents may each park a single vehicle at the dwelling which must be operable and currently used as the primary form of transportation for the resident.
- D. The property must be fully in compliance with all requisite building, zoning, and municipal codes.
- E. No sober living facility shall be located within one-thousand feet (1,000'), as measured from the closest property lines, of any other sober living facility or any other licensed alcoholism or drug abuse recovery or treatment facility.
- F. In addition to the conditions outlined above, the following regulations shall also apply to sober living facilities.
 1. All occupants, other than the house manager, if any, must be actively participating in legitimate recovery programs and the sober living facility must maintain current records of meeting attendance under the sober living facilities rules and regulations.
 2. The sober living facility rules and regulations must prohibit the use of any alcohol or any non-prescription drugs by any recovering addict either on or off the premises. The sober living facility must also have a written policy regarding the possession, use, and storage of prescription medications. The facility shall be prohibited from dispensing medications but shall make them available to the residents. The possession or use of prescription medications is prohibited except for the person to whom they are prescribed and in the amounts or dosages prescribed.
 3. The sober living facility shall have a written visitation policy that shall preclude any visitors who are under the influence of drugs or alcohol.
 4. The sober living facility shall have a "good neighbor" policy that shall direct residents to be considerate of neighbors, including refraining from or engaging in excessively loud, profane, obnoxious, or illegal behavior that would unduly impact a neighbor's use or enjoyment of their property. The "good neighbor" policy shall also include provisions for keeping the premises, including any outdoor areas, clean and free of debris, garbage, and litter. The "good neighbor" policy shall also establish a written protocol to follow when a neighbor's complaint is received.
 5. These rules and regulations shall be posted on site in a common area within the sober living facility.
 6. Any violation of these regulations shall be cause for eviction.

SECTION 20.7 REVIEWING AUTHORITY:

- A. Upon proper application made, requests for reasonable accommodation shall be reviewed by the Director of Development Services using the criteria set forth) herein.

B. The Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth below.

C. If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision shall be stayed until the applicant responds to the request.

SECTION 20.8 REQUIRED FINDINGS:

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors.

A. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with a recognized handicap as defined herein and protected under fair housing laws.

B. Whether the requested accommodation is necessary to make housing available to an individual with a recognized handicap protected under the fair housing laws.

C. Whether the requested accommodation would impose an undue financial or administrative burden on the city.

D. Whether the requested accommodation would require a fundamental alteration in the nature of the City's land use or zoning regulations, codes or related programs.

E. The requested accommodation will not result in a direct threat to the health, safety or welfare of other individuals or cause physical damage to the property of others.

F. Whether the requested accommodation is necessary to make facilities of a similar nature economically viable in light of the particularities of the relevant market and market participants.

G. Whether the existing supply of facilities of a similar nature and operation in the community is already sufficient to provide individuals with a recognized handicap an equal opportunity to live in a residential setting.

H. The city shall consider the following factors upon any request for accommodation:

1. Whether the requested accommodation would fundamentally alter the character of the neighborhood;
2. Whether the requested accommodation would result in a substantial increase in traffic or insufficient parking;
3. Whether granting the requested accommodation would substantially undermine any express purpose of the city's Comprehensive Plan; and
4. Whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

SECTION 20.9 WRITTEN DECISION ON THE REQUEST FOR REASONABLE ACCOMMODATION:

A. The Director shall render a written decision on the request for reasonable accommodation within thirty (30) days of receipt. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Director's findings on the criteria set forth herein. The written decision shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.

B. The written decision of the Director shall be deemed final unless an applicant appeals the decision to the Board of Adjustment within the prescribed time period.

C. In the event the Director fails to render a written decision within the prescribed period of time, the request shall be advanced to the City Manager for final determination, who shall make such written determination within ten (10) days thereof. In the event that a written determination is not issued within forty (40) days of the request it shall be automatically be deemed as granted.

D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

SECTION 20.10 APPEALS:

A. Within thirty (30) days of the date of the Director's written decision, an applicant may appeal an adverse decision. Appeals from the adverse decision shall be made in writing to the Board of Adjustment within the prescribed period of time.

B. If an applicant needs assistance in filing an appeal on an adverse decision, the city will provide assistance to ensure that the appeals process is properly undertaken.

C. All appeals shall contain a statement of the grounds for the appeal.

D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

(Ord. O-2016-014, passed 6-22-2016)

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